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11-17-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Alexander Szynalski
Reissue Application No. 10/613,590
Filing Date: June 30, 2003
For: STOP SMOKING METHOD AND COMPOSITION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PROTEST UNDER 37 C.F.R. 1.291(a)
(OG Publication Date: October 21, 2003)

SIR:

The undersigned attorney, on behalf of Gorayeb Seminars Inc., Gorayeb Nutritional Products, and Ronald Gorayeb, all named defendants in pending litigation asserting infringement of U.S. patent 6,431,874, protests the allowance of any of the original claims 1-8 (which claims were misprinted), all of which are properly limited to "lobelia" in limitation "(C)" of claims 1 and 3 as shown in PTO Decision of October 29, 2003 (Exhibit 1 hereto).

The '874 "inventions" of the claims as allowed are anticipated under §102 and/or would have been obvious under §103, in view of the prior art "Gary Method" public uses, public sales, offers for sale, and publications documented in the Shira Block Declaration (Exhibit 2 hereto), in conjunction with patent applicant's admission in paragraph 52 of its "Answer to Counterclaim" in the litigation (Exhibit 3 hereto) "that Gary provided education and hypnosis." (Note: MPEP §2258F(1) provides that "an admission by the patent owner of record in the file or in a court record may be utilized in combination with a patent or printed publication). Applicant was requested to provide this information in a meaningful fashion to the USPTO in both its request for reissue

and its request for reexamination (see Exhibit 4 hereto). Applicant did not; rather it buried the pertinent Gary materials, the pertinent Goen materials, and the pertinent Gorayeb materials among thousands and thousands of pages of irrelevant and nonmaterial documents in violation of Patent Office Rules and practice.

The '874 patent claims are also not allowable over the information contained in Exhibit 5 hereto, "Submission of Prior Art Under 37 C.F.R. 1.501."

It is requested that the subject reissue application (and the related reexamination application) be acted upon and rejected with "special dispatch."

Schweitzer Cornman
Gross & Bondell LLP
292 Madison Avenue
New York, NY 10017
(646) 424-0770
CUSTOMER NO. 022831

Respectfully submitted,



Michael A. Cornman
Attorney for Protectors
Registration No. 20,672

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

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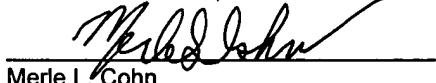
Merle L. Cohn

Certificate of Service on Applicant's Attorney

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Mark Pohl, Esq.,
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Date: November 13, 2003



Merle L. Cohn



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MARK POHL
 55 MADISON AVENUE 4TH FLOOR
 MORRISTOWN NJ 07960

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OCT 29 2003

OFFICE OF PETITIONS

In re Patent No: 6,431,874 B1
 Issue Date: August 13, 2002
 Application No. 09/427,447
 Filed: October 27, 1999
 Patentee: Syznalski

DECISION DISMISSING PETITION

This is a decision on the communication filed by facsimile transmission on June 5, 2003, styled as a response under 37 CFR 1.322(a)(4) and a petition under 37 CFR 1.181, seeking the USPTO stay its proposed issuance of a Certificate of Correction for the above-identified patent, which is being treated as a petition under 37 CFR 1.181 seeking reconsideration of the Office communication of May 6, 2003, which indicated that a Certificate of Correction under 35 U.S.C. § 254 and 37 CFR 1.322 was forthcoming.

The petition is **dismissed**.

BACKGROUND

The above-identified application was filed on October 27, 1999. The originally presented claims were drawn to a method (claims 1 through 10) of, and composition of matter (claims 11 through 20) for, helping a tobacco smoker stop smoking, which in element (C) that was common to all 20 claims, employed lobelia in an amount effective to reduce the smoker's craving for nicotine.

In reply to the final Office action of June 26, 2001, which treated claims 1 through 20, applicant filed an amendment on August 3, 2001, under 37 CFR 1.116 which canceled claims 2 through 5, 7 through 10, 12 through 15, and 17 through 20, leaving claims 1, 6 (dependent on claim 1), 11, and 16 (dependent on claim 11) remaining. This being the first amendment, it was lettered as amendment "A" in red ink on the correspondence itself and also on the contents section of the file on the line accorded to its paper number.

The Office action of August 24, 2001, reopened prosecution. The action indicated that the amendment of August 3, 2001, had been entered, and that a new ground of rejection was being applied. The action inadvertently mentioned only the independent claims 1 and 11, and rejected these claims on the ground of anticipation over the Cooper reference, but was silent as to the disposition of dependent claims 6 and 16.

A reply to the Office action of August 24, 2001, was filed on September 25, 2001. The accompanying amendment to independent claims 1 and 11 broadened element (C) to now recite --an anti-smoking drug-- in place of the formerly more limited "lobelia." Pursuant to 37 CFR 1.121(c)(3), the amendment presented two concurrent versions of claims 1 and 11: a "clean" version, and the "marked-up" version required by 37 CFR 1.121(c)(1)(ii) showing (by bracketing and underlining) how these claims were being changed by the current amendment. The remarks in the amendment also requested

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withdrawal of the previous cancellation of claims 7, 8, 17, and 18, but applicant did not reinstate these claims in the manner required by 37 CFR 1.121(c)(2), i.e., by presentation as new claims with new claim numbers. Additionally, the amendment presented new claims 21 through 24, which did not correspond to previously canceled claims 7, 8, 17, and 18, and instead further limited -- an anti-smoking drug-- of element (C) of the two independent claims to --an antidepressant-- in claims 21 and 23, and -- an antidepressant-- in turn was further limited to --lobelia-- in claims 22 and 24. This being the second amendment, it was serially lettered as amendment "B" in red ink on the correspondence itself as well as on the contents section of the file wrapper corresponding to its paper number.¹

The final Office action of December 4, 2001, rejected claims 1, 11, and 21 through 24 under 35 U.S.C. 112 first paragraph, due to the broadening of the claims to now cover an "anti-smoking drug" instead of the originally recited "lobelia". The action noted (at 2) that the rejection would be overcome and the claims would be allowable if the claims were again limited to --lobelia--. The examiner further volunteered that "[t]his may be accomplished by Examiner's Amendment, with applicant's authorization." The final Office action again inadvertently did not specifically mention the disposition of pending dependent claims 6 and 16, notwithstanding their continued presence in application as shown by the Index of Claims and the contents of the file.

A telephonic interview between the examiner and counsel was conducted on December 14, 2001, as memorialized in the Interview Summary form attached to the Notice of Allowability of January 15, 2002 (attachment 4). The Notice of Allowability also included an attached Examiner's Amendment (attachment 6) indicating counsel's authorization given during the aforementioned interview to change, in element (C) of independent claims 1 and 11, "an anti-smoking drug" to --lobelia--, and cancel claims 21 through 24. The Notice of Allowability also included a Notice of References Cited (attachment 1), and an Examiner's Statement of Reasons for Allowance (attachment 8). The examiner's amendment to claims 1 and 11 was entered by hand in red ink, per MPEP 1302.04², albeit on the "marked-up" version of these claims. This being the third amendment, it was serially lettered as amendment "C" in red ink on the correspondence itself as well as adjacent to the changes made in the "marked-up" version of claims 1, 11; on the Index of Claims section of the file wrapper; and also on the contents section of the file on the line accorded to its paper number. The Notice of Allowability again inadvertently specifically mentioned only independent claims 1 and 11 (as being allowed) and did not indicate the disposition of pending dependent claims 6 and 16. The Notice of Allowance mailed the same date also indicated that the total number of claims being allowed was 2 (sic, 4).

¹ Since the Commissioner's Order No. 1733 of July 19, 1907, amendments are also lettered serially in the file. See Wolcott, Manual of Patent Office Procedure, 9th Ed., Patent Office Society, (1946) at 73-74.

² Manual of Patent Examining Procedure (MPEP), 8th Ed., (Aug. 2001). The MPEP has no binding force on the courts, but it commands notice as an official interpretation of statutes and regulations with which it does not conflict. Patent attorneys, examiners, and the public commonly rely on the MPEP as a guide in procedural matters. In re Kaghan, 387 F.2d 398, 401, 156 USPQ 130, 132 (CCPA 1967); Syntex v. U.S. Patent and Trademark Office, 882 F.2d 1570, 1571 n.3, 11 USPQ2d 1866, 1867 n.3 (Fed. Cir. 1989); Litton Sys., Inc. v. Whirlpool Corp., 728 F.2d 1423, 1439, 221 USPQ 97, 107 (Fed. Cir. 1984).

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On February 4, 2002, the examiner mailed a corrected Notice of Allowability that correctly indicated that the allowed claim numbers were in fact 1, 6, 11, 16; i.e., that 4 claims were being allowed.

On March 5, 2002, applicant filed an amendment under the provisions of 37 CFR 1.312 that reinstated the subject material of previously canceled claims 7, 8, 17, and 18, (inadvertently retaining the same claim numbers notwithstanding 37 CFR 1.121(c)(2), but entered in the "Index of Claims" section of the file wrapper as claim numbers 25 through 28.) The accompanying remarks confirmed that the allowed claims were 1, 6, 11, and 16, and that the reinstated claims were needed to overcome "an apparent misunderstanding" regarding the status of claims 7, 8, 17, and 18.

On May 7, 2002, a "Response to 312 Communication" was mailed, indicating that the amendment filed under 37 CFR 1.312 on March 5, 2002, had been entered.

The patent issued August 13, 2002, with claims 1, 6, 11, 16, and 25 through 28 numbered as 1 through 8, respectively. However, the agreed-to changes to limit the claims in part (C) to "lobelia" set forth in the examiner's amendment of January 15, 2002, were not reflected in the printed patent. The patent as printed correctly did not include canceled claims 21 through 24.

On May 6, 2003, a letter regarding a proposed Certificate of Correction under 35 U.S.C. § 254 to correct the obvious USPTO printing mistake was mailed to patentee under the provisions of 37 CFR 1.322(a)(4).

The instant petition was filed June 4, 2003.

STATUTE AND REGULATION

35 U.S.C. § 2(b)(2) provides, in pertinent part, that:

The Office...may establish regulations, not inconsistent with law, which...
(A) shall govern the conduct of proceedings in the Office.

35 U.S.C. § 10 states in pertinent part:

(1) The Director may publish in printed, typewritten, or electronic form, the following:
(A) Patents and published applications for patents, including specifications and drawings, together with copies of the same...

35 U.S.C. § 131 states:

The Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor.

35 U.S.C. § 254 provides that:

Whenever a mistake in a patent, incurred through the fault of the Patent and Trademark Office, is clearly disclosed by the records of the Office, the Director may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. A printed copy thereof shall be

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attached to each printed copy of the patent, and such certificate shall be considered as part of the original patent. Every such patent, together with such certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. The Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

37 CFR 1.2 states in pertinent part:

All business with the Patent and Trademark office should be transacted in writing... The action of the Patent and Trademark Office will be based exclusively on the written record in the office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Effective March 1, 2001, 37 CFR 1.121 stated in pertinent part:

(C) Claims. -

- (1) Amendment by rewriting, directions to cancel or add. Amendments to a claim must be made by rewriting such claim with all changes (e.g., additions, deletions, modifications) included. The rewriting of a claim (with the same number) will be construed as directing the cancellation of the previous version of that claim. A claim may also be canceled by an instruction.

(I) A rewritten or newly added claim must be in clean form, that is, without markings to indicate the changes that have been made. A parenthetical expression should follow the claim number indicating the status of the claim as amended or newly added (e.g., "amended," "twice amended," or "new").

(ii) If a claim is amended by rewriting such claim with the same number, the amendment must be accompanied by another version of the rewritten claim, on one or more pages separate from the amendment, marked up to show all the changes relative to the previous version of that claim. A parenthetical expression should follow the claim number indicating the status of the claim, e.g., "amended," "twice amended," etc. The parenthetical expression "amended," "twice amended," etc. should be the same for both the clean version of the claim under paragraph (c)(1)(I) of this section and the marked up version under this paragraph. The changes may be shown by brackets (for deleted matter) or underlining (for added matter), or by any equivalent marking system. A marked up version does not have to be supplied for an added claim or a canceled claim as it is sufficient to state that a particular claim has been added, or canceled.

(2) A claim canceled by amendment (deleted in its entirety) may be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number.

(3) A clean version of the entire set of pending claims may be submitted in a single amendment paper. Such a submission shall be construed as directing the cancellation of all previous versions of any pending claims. A marked up version is required only for claims being changed by the current amendment (see paragraph (c)(1)(ii) of this section). Any claim not accompanied by a marked up

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version will constitute an assertion that it has not been changed relative to the immediate prior version....

- (g) **Exception for examiner's amendments:** Changes to the specification, including the claims, of an application made by the Office in an examiner's amendment may be made by specific instructions to insert or delete subject matter set forth in the examiner's amendment by identifying the precise point in the specification or the claim(s) where the insertion or deletion is to be made. Compliance with paragraphs (b)(1), (b)(2) or (c)(1) of this section is not required.

37 CFR 1.133(b) states:

In every instance where reconsideration is requested in view of an interview with the examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111 and 1.135.

37 CFR 1.312 states:

No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. Any amendment filed pursuant to this section must be filed before or with the payment of the issue fee, and may be entered on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the application from issue.

37 CFR 1.322 states:

(a)(1) The Director may issue a certificate of correction pursuant to 35 U.S.C. 254 to correct a mistake in a patent, incurred through the fault of the Office, which mistake is clearly disclosed in the records of the Office:

- (i) At the request of the patentee or the patentee's assignee;
 - (ii) Acting *sua sponte* for mistakes that the Office discovers; or
 - (iii) Acting on information about a mistake supplied by a third party.
- (2) (i) There is no obligation on the Office to act on or respond to a submission of information or request to issue a certificate of correction by a third party under paragraph (a)(1)(iii) of this section.
- (ii) Papers submitted by a third party under this section will not be made of record in the file that they relate to nor be retained by the Office.
- (3) If the request relates to a patent involved in an interference, the request must comply with the requirements of this section and be accompanied by a motion under § 1.635.
- (4) The Office will not issue a certificate of correction under this section without first notifying the patentee (including any assignee of record) at the correspondence address of record as specified in § 1.33(a) and affording the patentee or an assignee an opportunity to be heard.

(b) If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

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OPINION

Petitioner asserts that the patent was properly printed. Specifically, petitioner contends, (1) the records of the USPTO do not clearly and unambiguously show the claims were printed in error, (2) the alleged error is not correctable under 35 U.S.C. § 254, and (3) the error alleged is not "of consequence" as allegedly required by § 254.

As to the first issue, the decision of the USPTO must necessarily be based on the written record in the USPTO. 37 CFR 1.2. Inspection of the written record of this file reveals that the examiner entered a rejection of claims 1 and 11 (under 35 U.S.C. § 112, first paragraph) upon their broadening by applicant to recite in element (C) "an anti-smoking drug", but advised applicant that if claims 1, 11 were corrected by being limited to --lobelia--, they would be allowable. Indeed, the examiner went so far as to invite an Examiner's Amendment to this effect, with, of course, applicants authorization.³ See Office action of December 4, 2001, (at 2). The formal Examiner's Amendment, an attachment to the Notice of Allowability of January 15, 2002, indicates that applicant's counsel agreed to the amendment proposed by the examiner, and the file shows that a copy of the amendment was mailed to applicant. The summary of the telephonic interview conducted on December 14, 2001, was memorialized by the Interview Summary that was also an attachment to the Notice of Allowability of January 15, 2002. The Examiner's Amendment also contained the caveat that "[s]hould the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312." While an amendment under 37 CFR 1.312 was filed on March 5, 2002, that amendment did not address any of the changes made by the aforementioned Examiner's Amendment, but instead reinstated the subject matter of previously canceled claims 7, 8, 17, and 18.

While petitioner contends that the "proposed examiner's amendment would have violated both law and internal Office procedure," there is simply no "proposed examiner's amendment" of record in this file.⁴ Rather, according to the contents of this file, the formal Examiner's Amendment of January 15, 2002, was agreed to by applicant's representative on December 14, 2001, created, a copy mailed to applicant, and is an entered paper in the prosecution history of this patented file. Contrary to petitioner's further contentions, the prosecution history of this file does not indicate that the outstanding Examiner's Amendment of January 15, 2002, was ever modified or withdrawn in whole or in part by the examiner, or by the applicant. The "Corrected Notice of Allowability" mailed on February 4, 2002, simply corrected an outstanding typographical error in the previous Notice of Allowability: the omitted disposition of dependent claims 6 and 16 was now clarified as also being allowed. See "Corrected Notice of Allowability," item 2.

³ As noted in MPEP 1302.04, a substantive amendment to the claims by the examiner is called a "formal examiner's amendment", and requires, *inter alia*, the applicant's approval, and that a copy be sent to the applicant. The Examiner's amendment of January 15, 2002, was such a formal examiner's amendment.

⁴ As to any alleged violation of law, as prosecution of the above-identified application was closed with the mailing of the Notice of Allowability, and further as the patent has issued, any issues regarding the correctness *vel non* of the prosecution on the merits will not be revisited. See MPEP 1701.

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Petitioner's contention that the lack of any further mention in the corrected Notice of Allowability of February 4, 2002, of the other attachments to the Notice of Allowability of January 15, 2002, means the "erroneous Examiner's Amendment [was] withdrawn," simply lacks any basis in the record. Any further amendments to claims 1, 11, such as deleting "lobelia" in element (C) and substituting --an anti-smoking drug-- would have required another formal Examiner's Amendment under 37 CFR 1.121(g) that would, in turn, have required an Interview Summary, and a copy of this Examiner's Amendment would have been mailed to applicant and placed in the file. See MPEP 1309. Alternately, any further amendment to claims 1, 11 deleting "lobelia" and inserting --an anti-smoking drug-- initiated by applicant would have required the filing of another amendment under 37 CFR 1.312, and further, the examiner's formal approval of entry of the amendment. See MPEP 714.16. The only amendment in the written record that was filed under 37 CFR 1.312 did not amend claims 1, 11.

The written record of this file is conspicuously and unambiguously devoid of any further amendment to claims 1, 11 subsequent to the Examiner's Amendment of January 15, 2002. The claims that were passed to issue by the examiner remained limited to --lobelia--, and the patent as printed should have reflected this limitation.

Petitioner's attention is further drawn to the fact that if the lack of the checked boxes in items 1, 4, 6, and 8 of the Corrected Notice of Allowability meant these items had been "withdrawn" by the examiner, then the examiner's consideration of the Cooper reference (U.S. 5,055,478) listed on the PTO-892 Notice of References Cited attached to the Notice of Allowability of January 15, 2002, would also have been withdrawn and the as-printed patent would not reflect the Cooper reference. As the Cooper reference was listed among those cited on the patent as issued, it is clear that no "withdrawal" of any type occurred. Likewise, if the Corrected Notice of Allowability was somehow construed to mean the Examiner's Amendment of January 15, 2002, had been withdrawn, then the cancellation of claims 21 through 24 would likewise have been rescinded, such that the corrected Notice of Allowability of February 4, 2002, would have indicated the allowed claims were now 1, 6, 11, 16, and 21 through 24, a circumstance that manifestly did not occur. Indeed, petitioner confirmed in his amendment filed under 37 CFR 1.312 on March 5, 2002, that the allowed claims were in fact 1, 6, 11, 16.

Rather, the written record of this file clearly shows an error in the claims of the patent as printed, and that such error arose from the USPTO. Simply put, the Examiner's Amendment "C" that replaced "an anti-smoking drug" in element (C) of claims 1, 11 as drafted in applicant's amendment "B" was entered on the "marked-up" versions of these claims, while the printer captured the "clean" version of these claims that had not physically been amended, for printing.⁵ However, it is axiomatic that any rewriting of a claim with the same claim number will be construed as a direction to cancel a previous version--or versions-- of the claim. See 37 CFR 1.121(c)(1)(i) "the rewriting of a claim

⁵ Prior to March 1, 2001, an applicant's amendment to the claims was made by bracketing and underlining to show deletions and additions to the claims, respectively. Effective March 1, 2001, 37 CFR 1.121 was amended, see 65 F.R. 54604 (Sep. 8, 2000), to require applicants to submit, in addition to the classic "marked-up" version of the claim(s) as amended for the examiner's convenience, a "clean" [no bracketing or underlining] version of the same claim(s) as amended for the printer to capture by OCR scanning, to facilitate the patent publishing process. See 65 F.R. 54604 at 54639, response to comment 60.

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(with the same number) will be construed as directing the cancellation of the previous version of the claim"); In re Beyers, 230 F.2d, 451, 455, 109 USPQ 53, 55 (CCPA 1956)(amendment of a claim by inclusion of an additional limitation had exactly the same effect as if the claim as originally presented had been canceled and replaced by a new claim including that limitation). Here, the previous broad claims 1, 11 of applicant's amendment "B" filed September 25, 2001, were canceled and replaced by the later Examiner's Amendment "C" of January 15, 2002, which limited element (C) of all claims to --lobelia-. That is, both the "marked-up" and "clean" versions of claims 1, 11 as drafted by applicant in amendment "B" were replaced by the narrowing Examiner's Amendment "C," that limited all claims to --lobelia-- as a condition of patentability.

Inspection of the written record of the file further reveals the printer treated the "clean" version of claims 1, 11 as controlling by way of handwritten brackets and numerical pagination, both appearing in blue ink, that excluded from printing the "marked-up" but further limited version, but included the "clean" version for printing. Nevertheless, the "clean" version of claims 1, 11 was and is still clearly marked as amendment "B" (in red ink) and appeared on pages 2-3 of the amendment of September 25, 2001, while the "marked-up" versions of these claims that contained the Examiner's Amendment were clearly marked (in red ink) as the later "C" version of the claims, and appeared on pages 1, 2 of the same amendment. Likewise, the red "C" also appears where claims 21 through 24 were canceled by a red ink strike through when the Examiner's Amendment of January 15, 2002, was entered, as well by the red ink strike in the Index of Claims, showing that these claims and their numbers had been canceled, pursuant to MPEP 719.04. That is, the printer captured the "clean" version of the broadened claims 1, 11 of amendment "B", notwithstanding that the written record clearly showed that both versions of these previous claims ("clean" and "marked-up") had been canceled and replaced by the by the succeeding Examiner's Amendment "C" which, of course, limited all claims to --lobelia-. See 37 CFR 1.121(c)(1); Beyers, supra.

It is noted that 37 CFR 1.121(g) permits the examiner, by way of an Examiner's Amendment, to amend claims without having to present both "clean" and "marked-up" versions of the claims required by of applicant. That is, as here, the examiner can make additions or deletions to the claim(s) of record simply by way of instructions to make the change(s) at a precise location(s) in the claim(s). The record is devoid of any instructions by the examiner subsequent to the Examiner's Amendment of January 15, 2002, to make, or approve, further additions or deletions to claims 1, 11. Indeed, the record is devoid of any further additions or deletions of any type to claims 1, 11 after they were allowed, as amended by the Examiner's Amendment "C" on January 15, 2002. There is clearly no basis in the written record of this file for the claims to have been printed where element (C) contained the phrase "an anti-smoking drug" instead of --lobelia--.

While petitioner now disputes (at n.1) that it was mutually agreed to limit the claims to --lobelia-- in the interview of December 14, 2001, notwithstanding the memorialization in the Examiner's Interview Summary, as well as in the Examiner's Amendment, both attached to the Notice of Allowability, the written record of the above-identified application clearly fails to support this contention. See 37 CFR 1.2. If the substance of the interview as recorded by the examiner warranted correction or supplementation, it was incumbent upon applicant during the pendency of the above-identified application to correct or supplement the record in writing, and request reconsideration. See 37 CFR 1.2; 1.133(b); MPEP 713.04; Interview Summary Sheet attached to Notice of Allowability of January 15, 2002. There is clearly no evidence in the written record that applicant ever corrected or supplemented the substance of the interview as recorded by the examiner. Likewise, if the changes or additions set forth in the Examiner's

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Amendment of January 15, 2002, were unacceptable to applicant, applicant was invited to file an amendment under 37 CFR 1.312. Applicant's amendment filed under 37 CFR 1.312 on March 5, 2002, while it did reinstate four previously canceled claims did not also seek to reinsert the previously refused broadening limitation of "anti-smoking drug" to claims 1 and 11, and delete the narrowing --lobelia--. There is clearly no evidence in the written record that applicant filed an amendment under 37 CFR 1.312 to undo or modify the changes or additions made by the Examiner's Amendment of January 15, 2002, much less that such an amendment was approved by the examiner.

Furthermore, while applicant contends that the corrected Notice of Allowability of February 4, 2002, which indicated the allowed claims were 1, 6, 11 and 16, somehow "corrected and withdrew" the allegedly erroneous Examiner's Amendment, such that the claims were rebroadened to "an anti-smoking drug," it is brought to petitioner's attention that the Examiner's Amendment "C" of January 15, 2002, also canceled claims 21 through 24. Thus, if the corrected Notice of Allowability upon which petitioner relies also operated to rescind the Examiner's Amendment of January 15, 2002, then the corrected Notice of Allowability would have indicated that the allowed claims were in fact 1, 6, 11, 16, and 21 through 24. Likewise, the written record does not show that, upon receipt of the corrected Notice of Allowability, applicant then considered the Examiner's Amendment "C" to have been vacated, as applicant expressly confirmed on March 5, 2002, that only claims 1, 6, 11, and 16 stood allowed, and not that claims 1, 6, 11, 16, and 21 through 24 stood allowed. See amendment of March 5, 2002 (at 2):

Claims 1, 6, 11 and 16 stand allowed. This Amendment to claims 7-8 and 17-18 is submitted under Rule 312 and M.P.E.P. 714.16. Note that this Amendment does not affect (e.g., withdraw, change) allowed claims 1, 6, 11, and 16 (emphasis in original)."

The amendment under 37 CFR 1.312 then went on to reinstate previously canceled claims 7, 8, 17, and 18, and did not address previously canceled claims 21 through 24.

With respect to the second issue noted above, petitioner contends that the legislative history of § 254 explains that the purpose of that statute is to allow the correction of clerical or typographical errors, i.e., those errors that are immediately apparent upon reading the claims. Petitioner asserts that since the as-printed claims are not meaningless when read literally, correction is not required.

Nevertheless, whatever the legislative intent may have been in 1924 when the almost identically worded predecessor to current § 254 was drafted, the statute as written does not limit the USPTO to the issuance of certificates that correct only clerical or typographical errors caused by the USPTO. Rather, language limiting Certificates of Correction to clerical or typographical errors appears in 35 U.S.C. § 255, which speaks to mistakes in a patent arising from applicant, but such is immaterial to the instant situation involving errors arising from the USPTO. As the Federal Circuit noted when construing § 254 in Southwest Software v. Harlequin, 226 F.3d 852, 56 USPQ2d 1161 (Fed. Cir. 2000):

We begin the process of statutory interpretation with the language of the statute. See Van Wersch v. Department of Health & Human Servs., 179 F.3d 1144, 1148 (Fed. Cir. 1999) (citing VE Holding Corp. v. Johnson Gas Appliance Co., 917 F.2d 1574, 1579, 16 USPQ2d 1614, 1618 (Fed. Cir. 1990)). If the language is clear, the plain meaning is conclusive. See *id.* at 1152 (holding that Congressional intent, as clearly expressed in legislative history, could not

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"trump the irrefutably plain [statutory] language that emerged when Congress actually took pen to paper").

Thus, contrary to petitioner's urging, the clear language of § 254 is not properly limited by further imposing legislative intent on the plain meaning of the statute. Furthermore, while Congress enacted 35 U.S.C. § 255 in 1952 to provide Certificates of Correction for the correction of minor clerical or typographical errors in a patent made by the applicant, it did not concurrently amend § 254 to limit its scope to the correction of minor clerical or typographical errors made by the USPTO. As such, applicant's proposed imposition of additional constraints on § 254 is not persuasive. See St. Martin Evangelical Lutheran Church v. South Dakota, 451 U.S. 772, 786-88 (1981) (Congress in amending one section of a statute is not presumed to have intended an amendment to another section of the statute which had not been altered); Russell v. United States, 464 U.S. 16, 23 (1983) "[w]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." As the plain language of § 254 does not further limit the "mistake" to clerical or typographical errors, correction of the USPTO printing mistake in question by way of a Certificate of Correction is clearly within the aegis of § 254.⁶

As to petitioner's contention that the claims as printed are not meaningless, and as such do not require correction, the question is, rather, whether the patent was printed in accordance with the record in the USPTO of the application as passed to issue by the examiner. Clearly, the claims were not so printed. Furthermore, as noted above, the mistake is immediately apparent when the content of the claims as printed are compared with the content of the written record in the USPTO of the application as passed to issue by the examiner.

Petitioner further contends that, pursuant to 35 U.S.C. § 282, the as-printed patent is presumed valid, and as such, this presumption of validity may only be rebutted by "clear and convincing" evidence. Since, petitioner maintains, the "proposed" Examiner's Amendment would have been incorrect as a matter of law and procedure, the USPTO allegedly rectified this error by printing the proper claims. As such, petitioner asserts the record fails to establish "clear and convincing" evidence of the alleged error.

Initially, as noted above, there is no "proposed" Examiner's Amendment in the record of this file. Inspection of the contents of this file reveals only the Examiner's Amendment of January 15, 2002, that is a permanent part of the record of this file. See MPEP 719.01. That same inspection fails to reveal any further modification, withdrawal, amendment or rescission, in whole or in part, of that Examiner's Amendment by either applicant or the examiner, that would support applicant's contention that the claims

⁶ The USPTO has a long history of issuing certificates of correction to correct errors in patents arising from its own internal processing, or its printing operation, that actually predates the liberal statutory authorization provided by § 254 and its 1924 predecessor statute. See McCrady, Patent Office Practice, 4th Ed. (1959) at 439. The USPTO originated mistakes in printed patents corrected by Certificates of Correction have run the gamut from the trivial, such as punctuation errors, to omitted drawings, and even to missing claims. *Id.* According to Workload Table 24 of the USPTO Annual Report for Fiscal Year 2000, the USPTO had averaged for a 5 year period a combined yearly total of about 16,000 Certificates of Correction under both § 254 and § 255. See <http://www.uspto.gov/web/offices/com/annual/2000>.

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were correctly printed in the patent. Rather, inspection of the contents of this file clearly reveals that the scope of the patent claims as printed is incorrect. Furthermore, petitioner has not shown that the presumption of validity set forth in § 282 is applicable to the USPTO when it exercises its discretionary authority under § 254 and 37 CFR 1.322. As the court noted in Stratoflex, Inc. v. Aerogquip Corp., 713 F.2d 1530, at 1534, 218 USPQ 871, at 875 (Fed. Cir. 1983):

The presumption, like all legal presumptions, is a procedural device, not substantive law. It does require the decision-maker to employ a decisional approach that starts with the acceptance of the patent claims as valid and that looks to the challenger for proof of the contrary. Thus the party asserting invalidity not only has the procedural burden of proceeding first and establishing a *prima-facie* case, but the burden of persuasion on the merits remains with that party until final decision... With all evidence in, the trial court must determine whether the party on which the statute imposes the burden of persuasion has carried that burden.

Petitioner has not shown, nor is it apparent, that the "clear and convincing" standard for proving invalidity applies to the USPTO when it exercises its discretionary authority under § 254. The standard set forth in § 254, which here controls, is "clearly disclosed," not "presumed valid. "Clearly disclosed" is not defined in the statute. However, "[a] fundamental canon of statutory construction is that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning." Perrin v. United States, 444 U.S. 37, 42 (1979). "Clearly" is the adverbial form of "clear" which is defined as, *inter alia*, "easily visible," "free from obscurity or ambiguity; easily understood; unmistakable," and "free from doubt." *Webster's Ninth New Collegiate Dictionary* 247 (1985). "Disclosed" is the past tense of "disclose" which is defined as "to expose to view," "to make known or public". *Id.* at 360. Consequently, the ordinary, contemporary, and common meaning of clearly disclosed envisions anything that is easily understood, not obscure or ambiguous, and that is made known or exposed to view. It follows that the mistake in this patent is "clearly disclosed" within the (or any) meaning of § 254.

Since § 254 does not require the "clear and convincing" standard, petitioner has no reasonable basis to import this standard into § 254, and then impose this standard on the USPTO in this instance. See Southwest, *supra*. Rather, the "clear and convincing" standard applies to those infringement defendants who challenge the validity under § 281 of a patent or its claims either as issued, or as corrected by a Certificate of Correction. See Superior Fireplace Co. v. Majestic Products Co., 270 F3d. 1358, 60 USPQ2d 1668, 1674 (Fed. Cir 2001). Here, the USPTO is not a defendant in an infringement action who is asserting the invalidity of the patent or claims within the meaning of § 281. It follows that the USPTO does not here bear the "clear and convincing" standard of proof more correctly applicable to putative infringers under § 281. Rather, the USPTO is here asserting there is a mistake caused by the USPTO in this patent that is "clearly disclosed" by the records of the Office within the meaning of § 254. Compare In re Etter, 756 F2d. 852, 225 USPQ 1 (Fed. Cir 1985) where the court noted that the presumption of claim validity does not apply to USPTO in reissue applications under 35 U.S.C. 251 when ruling likewise for reexamination proceedings, and observed "the focus of both is on curing defects which occurred during a proceeding in the PTO, which was responsible for original issuance of the patent." § 254, like § 251, is found in Chapter 25, Title 35 United Sates Code entitled "Amendment and Correction of Patents." Like reissue and reexamination, the focus of § 254 is on curing defects which occurred during a proceeding in the USPTO which was responsible for the original issuance of the patent. Contrary to petitioner's assertion, it

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does not automatically follow that the USPTO must meet the "clear and convincing" burden of proof of a mistake when it proposes to issue a Certificate of Correction under § 254 and 37 CFR 1.322.

Petitioner is reminded that the printing operation (under 35 U.S.C. § 10, see MPEP § 1309 *et seq.*), is distinct from the examining operation (under 35 U.S.C. § 131, see generally MPEP Chapter 700) within the USPTO, and that the determination of patentability *vel non* of the claims is performed in and by the examining, not the printing, operation. See 35 U.S.C. § 131 ("[t]he Director shall cause an examination to be made of the application and of the alleged new invention; and if it appears on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefore;" § 151 ("[i]f it appears that applicant is entitled to a patent under the law a written notice of allowance of the application shall be given or mailed to the applicant.") The examination, culminating in the determination of patentability indicated by the giving or mailing of the written notice of allowance is only performed in the examining operation, not the printing operation, of the USPTO. The subsequent patent printing operation, that "shall issue a patent therefore" is simply ministerial in nature and as such has no statutory, regulatory, or authority delegated from the Director, to modify, rescind, or abrogate the examining operation's prior determination of what constituted patentable subject matter. Indeed, 37 CFR 1.322(a)(1)(ii) permits any part of the USPTO to, *sua sponte*, initiate a Certificate of Correction to mitigate USPTO mistakes in a patent arising from e.g., the printing process. In any event, assuming *arguendo* the standard of proof of a mistake in a patent incurred by the USPTO is "clear and convincing" evidence, then the foregoing clearly demonstrates there is "clear and convincing" evidence in the written record that the narrowed claims limited to --lobelia-- that were passed to issue by the examiner were unfortunately not the broad claims that were printed. Compare the Office action of December 4, 2001, (at 2) with the Examiner's Amendment of January 15, 2002. Furthermore, there is no "clear and convincing" evidence of any further Examiner's Amendment within the meaning of 37 CFR 1.121(g) that specifically made changes and additions to element (C) of allowed claims 1 and 11, or of an amendment filed by applicant after allowance under 37 CFR 1.312, approved by the examiner, that canceled "lobelia" in element (C) and inserted --an anti-smoking drug.--

Petitioner further contends that the printing of these claims "by mistake" would have required the unlikely circumstance that the examiner, the Office of Publications, and the Office of Quality Review, each independently made an error. Assuming for the sake of argument that it was necessary for all three areas of the USPTO to have erred, § 254 only requires that the mistake in the above-identified patent be "clearly disclosed" and does not condition USPTO correction of the mistake on how it arose other than it be the fault of the USPTO. As noted above, the examiner (or the clerical staff) arguably erred⁷ in amending the "marked up" version of claims 1, 11 just as the printer arguably erred in capturing and printing the "clean [but now canceled] copy" of the prior, broadened claims. There is no written evidence in the record of this file that this application was reviewed, screened, or surveyed, by the Office of Quality Review. Even assuming such

⁷ While a careful reading of 37 CFR 1.121(g), the final rulemaking reported at 65 F.R. 54604, and MPEP 1302.04, fails to reveal that the examiner (or USPTO clerical staff) was expressly required to enter changes made by an Examiner's Amendment under 37 CFR 1.121(g) on the "clean" version of any amended claims, such was implied by the rule change adding the requirement for a "clean" version of the claims to facilitate their capture by OCR scanning during the printing process.

were the case, the Office of Quality Review reviews an allowed application to determine if any claims allowed by the examiner are in fact not patentable. See MPEP 1308.03. The Office of Quality Review does not proof read the efforts of the printing operation for errors in initial or final data capture. In any event, even assuming *arguendo*, that all three areas of the USPTO erred, that does not preclude correction of the mistake by way of § 254.

Petitioner further asserts that the alleged error is not subject to correction by a Certificate of Correction. Specifically, petitioner urges, and relies upon several reported decisions in support of his contention, that correction of the kind of error present herein, would entail changing the scope of an allowed claim, and that "cannot be corrected by a Certificate of Correction as a matter of law." Nevertheless, the decisional authorities (petition at 8-9) relied upon by petitioner simply do not address the instant situation, which is correction of a USPTO caused mistake under § 254 and its promulgating regulation 37 CFR 1.322. Rather, the decisional authorities relied upon by petitioner are all directed to Certificates of Correction seeking to correct a mistake caused by applicant under § 255 and its promulgating regulation 37 CFR 1.323. As noted above, and as detailed in the very authorities that petitioner relies on, Congress placed numerous limitations in § 255 that sharply limit attempts to correct mistakes arising from applicant in an issued patent by way of a Certificate of Correction.⁸ That Congress did not concurrently place the same limitations in § 254 in 1952 which deals with the USPTO correcting its own mistakes, clearly demonstrates that Congress intended that the USPTO have more freedom in correcting its own mistakes by way of a Certificate of Correction than a patentee would have in correcting his own mistakes by way of a Certificate of Correction. § 254 only sets forth "a mistake" which is manifestly not limited to typographical or clerical mistakes, and indeed "a" is not followed by any further restrictive modifier and, as such, "a mistake" is clearly inclusive of any and all mistakes that might occur in a patent caused by the USPTO. Indeed, inspection of typical errors in claim scope corrected by Certificates of Correction issued by the USPTO under § 254 reveals that claims have been deleted, which is, of course, the ultimate narrowing of the scope of a claim, as well as added, which is the ultimate in according scope to the added claim, and various intermediate changes in the scope of claims as printed, have likewise been effectuated. For example, a Certificate of Correction under § 254 was issued on July 31, 2001, to U.S. 6,019,809, that deleted claims 1 through 5, which notwithstanding their prior cancellation by applicant, were inadvertently printed in the patent. The corrective cancellation of these claims meant, of course, that the patent had never issued with that subject matter claimed, and as such, the scope of the patent's claims had been narrowed. On the same date, a Certificate of Correction under § 254 was issued to U.S. 6,018,312, to add an entire last step "(e)" involving calculation, to method claim 1, that had inadvertently not been printed in the

⁸ A Certificate of Correction under 35 U.S.C. § 255 and 37 CFR 1.323 is available for the correction of applicant's errors of only a minor or clerical character, and does not extend to the correction of applicant's errors that would constitute new matter or would require reexamination. See *In re Arnott*, 19 USPQ2d 1049, 1054 (Comm'r Pat. 1991); *In re Hyman*, 185 USPQ 441, 442 (Sol. Pat. 1975). Specifically, 35 U.S.C. § 255 requires, *inter alia*, that two specific and separate requirements be met prior to the issuance of a Certificate of Correction. The first requirement is that applicant's mistake is: (1) of a clerical nature, (2) of a typographical nature, or (3) of minor character. The second requirement is that the correction must not involve changes that would: (1) constitute new matter or (2) would require reexamination. See *Arnott* 19 USPQ2d at 1052; see also MPEP 1485.

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patent. The corrective addition of this further limitation, meant, of course, that the patent as issued now required 5 processing steps (a through e), and not 4 (a through d) as printed, and as such, the scope of claims 1 *et seq.* had been narrowed. On May 28, 2002, a Certificate of Correction under § 254 was issued to U.S. 6,027,798, to add two dependent claims that had inadvertently not been printed in the patent. By definition, these dependent claims presented an additional limitation(s) that further modified or restricted the scope of claim 13 upon which they depended, see 35 U.S.C. § 112, paragraph 4, and as such, the scope of claim 13 was narrowed.

As to the third item noted above, petitioner contends that as the "alleged error" is not a "mistake of consequence" within the meaning of MPEP § 1480, a Certificate of Correction should not issue. Petitioner further points to litigation in progress involving the as-printed patent, and that any forthcoming Certificate of Correction under § 254 would have no consequence on the already-pending litigation, and cites Harlequin, supra, in support of his contention.

Petitioner appears to misconstrue § 1480 of the MPEP, which merely recounts the discretionary authority of the USPTO with respect to correcting its own mistakes under § 254, when its limited resources are balanced against the need for the public to have correct information about patents that the USPTO has printed. As noted above, the mistake in the above-identified patent as printed is clearly disclosed within the meaning of § 254 by the records of the USPTO. Indeed, petitioner acknowledges that the claims as unfortunately printed have already been asserted against a member of the public. It is well settled that the claims of the patent as printed constitute public notice of the scope of the patent grant. See e.g., Warner Jenkinson Co. v. Hilton Davis Chem. Co., 520 U.S. 17, 29 (1997). However, the public is also entitled to rely upon the public record, including the prosecution history, of a patent in determining the scope of the patent's claims. See Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1583, 39 USPQ2d 1573, 1577 (Fed. Cir. 1996); Vectra Fitness v. TNWK Corp., 162 F.3d 1379, 1384, 49 USPQ2d 1144, 1148 (Fed Cir. 1998). This reliance enables businesses, as well as others, to plan their future conduct in as certain an environment as possible. Vitronics, Id. Where, as here, there is a clearly disclosed discrepancy between the public record of the patent file prosecution history and the patent as printed, this discrepancy creates an ambiguity as to where the public may properly place its reliance: the public record or the printed copy of the patent. Here, staying the Certificate of Correction would tend to maintain the uncertainty of this environment for businesses and others in planning their future conduct, and tend to decrease the ability of the public to rely on the public record of this patent. That litigation may already be underway involving one member of the public is immaterial to the USPTO exercising its discretionary authority to correct its own mistake for the benefit of both the patentee and the public. Issuance of the Certificate of Correction will tend to render the business environment more certain, and further, both the public notice effect of the public record of this file and the public notice effect of the issued claims as amended by the Certificate of Correction will be in harmony. Since the records of the USPTO clearly disclose the existence of a mistake in the scope of the claims as now printed in the patent when compared to the scope of the claims that were actually passed to issue by the

⁹ For example, the "recapture rule" prevents a patentee from regaining through reissue subject matter surrendered during prosecution, thus ensuring the ability of the public to rely on a patent's public record. See *In re Clement*, 131 F.3d 1464, 1468, 45 USPQ2d 1161, 1164 (Fed. Cir. 1997).

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examiner, it is in the interest of both the patentee and the public for the USPTO to issue a Certificate of Correction under § 254 and 37 CFR 1.322.

DECISION

The petition is granted to the extent that the Office communication of May 5, 2003, has been reconsidered, but for the reasons given above is **dismissed** as to the request for an order staying issue of a Certificate of Correction under § 254 and 37 CFR 1.322. The USPTO will exercise its discretion in this instance and correct its own mistake that is clearly disclosed by the records of the Office.

This patent file is being forwarded to Certificate of Correction Branch for processing of the Certificate of Correction.

Telephone inquiries related to this decision may be directed to Petitions Examiner Brian Hearn at (703) 305-1820.

Mean at (700) 300 1920.

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Patent and Trademark Office
Technology Center 3700
Workgroups 3710/3720
Director's Office, CP2-10A12

Mailing Address: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FAX COVER SHEET

DATE: November 4, 2003

TO: Company/Agency/Office:

Attention: Mr. Cornman

FAX Number: (646) 424-0880

FROM: Sender: STEPHEN MARCUS, SPRE TC 3710/3720

Office Phone Number: (703) 308-3872

Originating/Return FAX Number: (703) 305-3762

Number of Pages Including Cover Page: 16

Remarks: RE: USP 6,431,874 B1 - There is no paper in the file corresponding to the PALM (PAIR) entry dated 10/29/03 entitled "POST ISSUE COMMUNICATION - CERTIFICATE OF CORRECTION ." I believe that the entry refers to a paper sent to Certificate of Corrections Branch. The enclosed paper No. 30 is the last physical paper in the file.

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

A GOEN SEMINARS INSTITUTE, INC.,

Plaintiff,

v.

Civ. 03-1051(KSH)

GORAYEB SEMINARS, INC.,

GORAYEB NUTRITIONAL PRODUCTS INC.,

and RONALD B. GORAYEB,

Defendants

GORAYEB SEMINARS, INC.,

GORAYEB NUTRITIONAL PRODUCTS, INC.,

and RONALD B. GORAYEB,

**DECLARATION OF
SHIRA BLOCK McCORMICK**

Counterclaim Plaintiffs,

v.

A GOEN SEMINARS INSTITUTE, INC.,

GOEN TECHNOLOGIES, INC.,

NUTRAMERICA CORPORATION,

VITAMERICA CORPORATION;

GOEN GROUP, GOEN CORPORATION,

WALTER SZYNALSKI, and

ALEXANDER GOEN SZYNALSKI,

Counterclaim Defendants.

Shira Block McCormick declares under the penalty of perjury as follows:

1. I am a specialist in the field of human potential .I practice and write under the name Shira Block.

2. I have a private practice in western Massachusetts, where I specialize in personal and spiritual growth, stress and pain reduction, and the removal of destructive habits and addictive behavior.

3. I have conducted workshops and seminars focusing on personal growth and development throughout the U.S. and abroad.

4. I am also an author and have published several books, including "Step-By-Step Miracles," ©1994 and "The Way Home," © 1999.

5. In April 1991, I began working for Tom Gary, the founder, originator, and sole proprietor of a business called Hypnosis Systems Inc. d/b/a "The Gary Method."

6. I described my introduction to and my hiring by Tom Gary in 1991 at pages 72, 73 of my book "Step-By-Step Miracles." Annexed as Exhibit A is a copy of pages 72, 73. Annexed as Exhibit B is a copy of the registration form used by The Gary Method for registering attendees at the seminars.

7. I worked for Tom Gary, along with others including Susan Sexton and Walter Davis, to conduct Stop Smoking hypnosis seminars throughout the U.S. and Canada. Later I also conducted stop-smoking seminars in London, England.

8. Annexed hereto as Exhibit C is a two page flyer having my photograph along with photographs of Tom Gary and the other stop-smoking seminar leaders. The flyer describes generally the seminars that I, Tom Gary, and the others conducted in 1991-1992 and also lists the "self-help" audio cassettes and dietary supplements which we offered for sale at the seminars.

9. The Gary Method flyer of Exhibit C also listed "The Gary Method 30 Day Supplement," one bottle of which was given away free of charge to those who attended the seminars. Attendees were free to purchase additional bottles at \$15 per bottle.

10. Annexed hereto as Exhibit D are photographs of the bottle of 60 tablets distributed by me and the other seminar leaders in 1991-1992 in conjunction with our stop-smoking seminars.

11. In 1991-1992 Tom Gary advertised his method and his seminars. An exemplary Tom Gary promotional "VALPAK" flyer is annexed hereto as Exhibit E and bears a 1991 copyright notice.

12. A flyer, which I found in my files, of a competitor in the Stop-Smoking seminar business from 1992, Dave Lary, is annexed as Exhibit F.

13. On April 9, 2003, I was contacted by telephone by Michael A. Cornman, the attorney for the defendants in this matter. Mr. Cornman asked if I were the Shira

Block who had worked for Tom Gary in the early 90's. After my affirmative response, Mr. Cornman inquired as to my participation in and recollection of the Gary Method seminars.

14. At the request of Mr. Cornman, without any recompense or promise of compensation for my cooperation, I am giving this declaration to describe The Gary Method in general and my participation in Stop-Smoking seminars in particular, in the time period 1991-1992.

15. In general, "The Gary Method" used multi-modal techniques to get smokers to quit. Those who attended were all at least generally knowledgeable of the ills and dangers of smoking; that is why they came. We reinforced the knowledge of the smokers by "telling them about their addiction," describing the addictive nature of nicotine, the physiological dangers and the ills of smoking. Supplementing the direct conscious reinforcement of educating the smokers about the ills and dangers of smoking and their nicotine addiction (many of which were also printed on the cigarette packs most attendees carried in the form of prominent "government warnings"), I and the other Gary Method leaders used hypnosis to train the attendee's subconscious mind to resist any craving to smoke and not to light up a cigarette. In addition to providing the aforementioned "telling them about their addiction" conscious education as to the ills of smoking, its negative physiological damage to the body, and conscious steps to stop smoking, including never carrying cigarettes and never having just one cigarette; and the aforementioned hypnosis for subconscious reinforcement; we taught

the usage and benefits of "The Gary Method 30 Day Supplement," a dietary supplement which among other ingredients included lobelia Beta Carotene, and Vitamin

C. The different other specific ingredients of The Gary Method tablets are shown on the bottle photos, Exhibit D. As stated in Exhibit C, "Every ingredient in the supplement is natural (no chemicals or drugs). It is designed to calm you and help you for the first 30 days, while providing your body with such important supplements as Beta Carotene and Vitamin C." We also included weight loss control as part of the Gary stop-smoking seminars. Thus the Gary Method I employed, taught, and whose benefits I promoted at the 1991-1992 seminars included:

(1) educating tobacco smokers regarding smoking, its physiological dangers and addictive nature, and techniques to stop smoking; (2) hypnotizing said tobacco smokers, and (3) providing dietary substances to address the nutritional needs of nicotine addiction and the nutritional challenges thereof.

16. I have recently refreshed my recollection of the seminar content with a group of script materials I have had in my possession since 1991-1992. There were six parts to the Gary Method Seminars, namely:

1. 20-minute introduction. I have the complete script for this segment with the outline I used to remind me of what to say during the talk. After the script I conducted an unscripted question and answer period.
2. 20-minute cigarette break. During the break I would give people personal attention and answer more questions.
3. 3-minute post break introduction to the hypnosis. I have the complete script for this segment.

4. 30-minute Stop Smoking hypnosis section. This section can be broken down into two parts. The progressive relaxation section – which I only have two pages of that script, and the hypnosis itself – which I have most of the script.
5. 2-minute introduction to the weight loss hypnosis section. I have the complete script for this segment.
6. 30-minute Weight Loss hypnosis section. This section can be broken down into two parts. The progressive relaxation section – which I only have two pages of that script, and the hypnosis itself – which I have most of the script.

17. After the initial formal presentation of the educational portions of The Gary Method seminar were concluded, during a break, we offered for sale "support materials" including the self-help audio tapes described in Exhibit C. Photocopies of The Gary Method cassette labels are annexed hereto as Exhibit G. We also offered the Gary Method 30 Day Supplements for sale, although few sales were made since a 30 day supply of the tablets was given away free. We also offered books on weight control by Covert Bailey.

18. Photocopies of the scripts and seminar outline I found in my files were provided to Mr. Cornman and are annexed hereto as Exhibits H, I, J, K, L, and M.

19. The April 18, 2003 letter of transmittal to Mr. Cornman of the scripts and the "Dave Lary" flyer is annexed hereto as Exhibit N.

20. I conducted approximately five stop-smoking/weight control workshops per week across the U.S. in the period I worked for Tom Gary in 1991-1992, delivering "The Gary Method" to tens of thousands of smokers.

21. The above-described Gary Method seminars and associated audiotapes, 30 Day Supplements, and weight control books were publicly promoted, were sold to paying audiences, were widely advertised, and were offered for sale throughout the U.S., and were known and used by the tens of thousands of smokers seeking to stop smoking. The Gary Method was effective for a very large percentage of customers.

22. Tom Gary's headquarters were in New York City and his methods and seminars were advertised and conducted in the greater New York metropolitan area, including New Jersey.

May 7, 2003



Shira Block McCormick

STEP-BY-STEP MIRACLES

K KENSINGTON
NON FICTION

THE POWER IS IN YOU...

"As you experience the Step-by-Step Method, you will begin to see life-enhancing changes. Continue to use the Step-by-Step Method and you will experience what many call miracles."
—from STEP-BY-STEP MIRACLES

HARNESS YOUR INTERNAL RESOURCES...

Combining wisdom from ancient Hermetic Truths with modern spirituality and psychology, author and therapist Shira Block puts you in touch with the powerful parts of yourself that allow you to:

- Identify the beliefs that keep you from changing
- Transform yesterday's negative behavior patterns into positive principles that work for you *today*
- Follow your intuition
- Expand your creative thinking
- Explore your spiritual center through visualization, meditation and affirmation
- Create success in *all* areas of your life—and achieve results *now*

CREATE THE LIFE YOU WANT...

Complete with valuable, life-enriching exercises, STEP-BY-STEP MIRACLES will guide you to your goals; help you recognize and eliminate the obstacles in your way; and set you free to make the life that is true to your dreams.

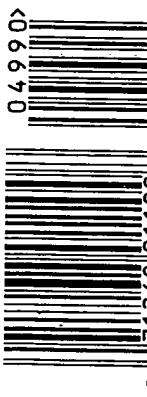
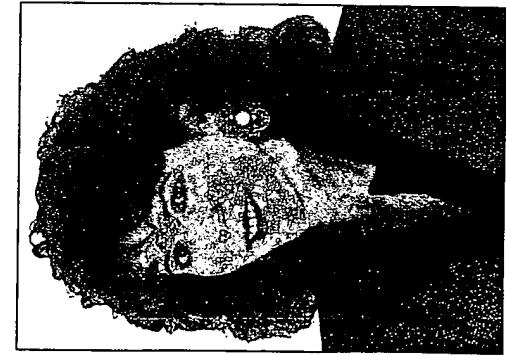
SHIRA BLOCK

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to Achieving
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You can wait for
miracles to happen,
or you can
create your own...

*With love and gratitude
to my friends and family
whose support and
encouragement have
allowed me to reach for
my dreams*

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Sometimes finding a positive outlet for passion is tricky. You may be in a situation in which you aren't exactly sure of what you want. You may only be sure that you are unsatisfied with the way things are. Bill, a lawyer, encountered just that problem. He had been working in law for ten years and was not happy. He was tired of his work and felt he would be happier doing almost anything else. To complicate matters, he had no particular interest in any other career. How could he create passion with no focus? Review the following case study and come up with some answers for Bill.

Shira B.: Many years ago I felt I did not have enough money to do the things I wanted to do and was not sure what the next step should be. I knew that I needed to generate a certain income to meet my expenses, and I wanted my work to be inspiring. Like Bill, I was aware that I needed something new but I wasn't sure what. I decided to access my subconscious mind to help me with this problem. Because I had no specific avenue in mind, I focused on creating passion about the essence of what I wanted, which was an opportunity that was perfect for me. I was not interested in working in an office environment because I needed a sense of freedom, but I needed to earn enough money to cover my living expenses.

I set aside an hour. For the first fifteen minutes I wrote and rewrote the following affirmation. "The most correct opportunity has come to me. I have the perfect job in all ways." During the second fifteen minutes I wrote, "Shira has the perfect job opportunity available. She has the best job she could ever dream of." At this point, I started to feel an optimism, a kind of excitement. For the third quarter of the hour, I wrote "Shira, your job is right for you in all ways. You earn all of the money you could ever need or want. You are inspired by your work. You are completely aligned with your highest purpose." For the last fifteen minutes I repeatedly stated, "I give thanks for the most correct, perfect job for me. I

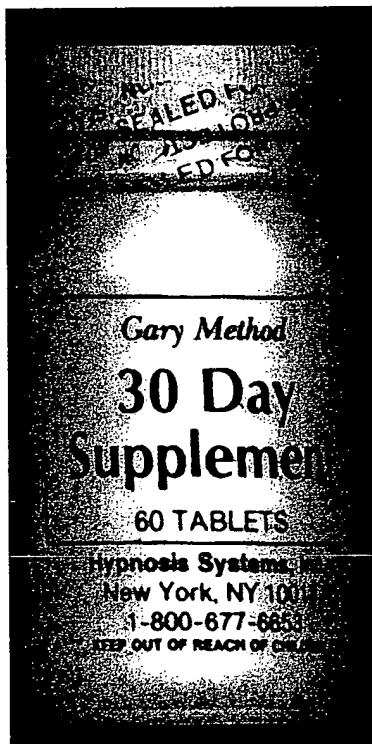
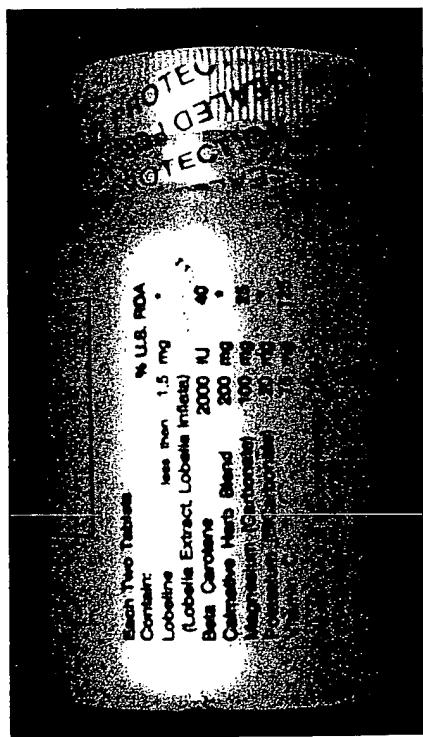
immediately have all that I need and want." As I spoke, I varied the words a little, but the feeling was always the same. I said this out loud over and over again, which made me feel excited and extremely optimistic. At one point, it felt so real to me that I wanted to run and tell someone about my new job. I knew that everything was going to be fine. I repeated this exercise twice over the next two weeks. My passion and anticipation grew, until I was looking over my shoulder for someone to run up to me and offer me a job.

Three weeks later I received a call from a friend telling me that a self-improvement lecture was being given at a local Holiday Inn where she worked. The people sponsoring the lecture usually hired ten people for the day to register attendants. As they were short-handed, my friend called to see if I was available. I had never done that kind of work, and it was not something I had the least bit of interest in learning. I went nonetheless.

At the end of the seminar, I introduced myself to the owner of the company. Within minutes we arranged to meet the next day. At our meeting, he hired me to lead seminars for his company. This was an opportunity that I never would have imagined falling into my lap. However, it was the perfect job for me. Within one month, I was happily traveling across the country, leading seminars, feeling fulfilled and inspired, and generating the money that I needed.

Even though the job itself was perfect for me, what was even more important was that this opportunity gave me the exposure and increased confidence I needed as a lecturer. This job positioned me in a place where I could formulate the concept of how I wanted to spend the rest of my working life.

Relate this to Bill. A different strategy was more suited to his personality. Writing to his parents about his achievements had always made him feel proud and happy. With this in mind, he



STOP SMOKING

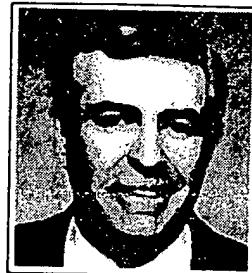
IN JUST 2 HOURS

No Withdrawal

No Anxiety

No Weight Gain

Only **\$39⁹⁹**
Complete!



"The Gary Method of Hypnosis has worked for 64,500 smokers over 14 years. Of those who join us, 96% will throw away their cigarettes and stop smoking at seminar's end. You'll leave refreshed - feeling good."
— Thomas Gary

Written Money Back Guarantee

SMOKERS FREE BONUS — A \$15.00 VALUE

PARK RIDGE	WAYNE	LIVINGSTON
TUES. EVE.	WED. EVE.	THURS. EVE.
SEPT. 10	SEPT. 11	SEPT. 12
PARK RIDGE MARRIOTT	WAYNE MANOR	HOLIDAY INN
300 Brac Blvd.	15 B.R.L. 23	550 Rte. 10
Exit 172N Garden State Pkwy.		
7:30 PM to 9:30 PM	7:30 PM to 9:30 PM	7:30 PM to 9:30 PM
Registration at the door	Registration at the door	Registration at the door
6:30-7:30 PM	6:30-7:30 PM	6:30-7:30 PM

You tried to quit — you tried everything — cold turkey, nicotine gum, maybe even other forms of hypnosis — and nothing worked.

The Gary Method of Hypnosis is unique. It has worked for 64,500 smokers in the last 14 years. It is guaranteed to end your smoking habit in one relaxed 2 hour seminar. You will not suffer withdrawal, anxiety or weight gain.

STOP SMOKING IN JUST 2 HOURS

You will not crave cigarettes — Yes, that's right for the first time in years you will not crave cigarettes! You will not just cut down. You stop smoking permanently in just 2 hours. In a single night you conquer the habit of a lifetime.

Continued...

LOSE WEIGHT FREE

Now you can use the *Gary Method of Hypnosis* to lose weight. That's right, lose the desire for fattening foods and huge portions — *ABSOLUTELY FREE!* Lose those extra pounds quickly, safely, and permanently! Lose the craving, anxiety and guilt. Get and stay slim.

The weight loss hypnosis will take place immediately following the Stop Smoking Seminar, and takes 30 minutes. Attend both and the Weight Loss program is **FREE!**

If you choose to attend only for weight loss, you *MUST* register at the door before the Stop Smoking Seminar starts. The fee is \$39.99. You will have a 30 minute break during the Stop Smoking Hypnosis. Come as a group, get a discount.

SMOKERS

FREE BONUS — A \$15.00 VALUE

VALUE

Unlike other forms of hypnosis, my method is designed to work everyday, in real life, your life. It works in traffic, on the job, around the kids. It works everyday to eliminate physical and mental stress.

You will not have to take anyone's word for it – you experience it – feel it – know it. You will see those around you, throw away their cigarettes and completely stop smoking by the end of the seminar. It works subconsciously – almost automatically.

YOU ARE ALWAYS IN CONTROL

During my seminar, you are aware, in control. You enter a state of wonderful physical relaxation; you hear, move, think and concentrate without the slightest effort. I will relax you even if you have suffered from nervousness or anxiety for years.

Hypnosis is scientifically proven and officially recognized as safe and effective by both the American Medical Association and British Medical Association. It dramatically changes behavior. The research of a Noble Prize winner has provided the key to my particular method's success.

ELIMINATE YOUR CRAVING FOR CIGARETTES

My hypnotic suggestions eliminate your craving for cigarettes after dinner, with coffee or alcohol. That's right with the Gary Method you leave the seminar a nonsmoker. You can have a cup of coffee 10 minutes later and not crave a cigarette. You have control, relaxed confident control, after dinner or with a drink. You use the power of your subconscious to eliminate the thought of a cigarette within 30 to 60 seconds any time you choose.

The hypnotic suggestions I will give you during the seminar will place you in control and eliminate your craving for cigarettes. Twenty-seven specific suggestions make my

method work for you. These suggestions stop your urge to smoke in everyday situations such as:

- * When you are on the telephone
- * at work
- * when driving
- * when drinking coffee
- * after meals
- * watching TV

There is even a hypnotic suggestion which allows you to be around other smokers. Yes, you can be with your friends or family who smoke and still be comfortable.

My method has been highly praised by leading corporations, educators and medical professionals coast to coast. It was specifically designed to conquer the toughest of smoking habits. My earliest research was done with highly stressed executives who smoked 2½ to 3 packs a day for over 30 years! These executives paid \$125 each to quit comfortably, almost effortlessly. You can benefit from my group seminar and pay only \$39.99.

I'm so sure of success I offer this Written Guarantee:

If for any reason you are not satisfied at the seminar I will personally refund your entire fee – on the spot – no questions asked! If you ever start to smoke again you will be admitted absolutely free to a Gary Method of Hypnosis Stop Smoking Seminar.

Now that's a guarantee in writing!

Bring this ad for your **Free Bonus!** A \$15.00 value designed to give you the best chance you'll ever have to stop smoking. Yours **absolutely free!** Bring your friends and family – you'll each pay less and you'll all end the addiction of a lifetime in just 2 hours!

That's right, come as a group, get a discount and throw away your cigarettes forever!

Seminar Fee is only \$39.99. We accept Checks, Cash, MasterCard, Visa or American Express. Bring friends, come as a group and pay less.

*I kicked the habit
in 2 short hours with the
Gary Method. There was no
withdrawal – it was so easy.**



ENDORSEMENTS

I smoked 3 packs a day for 34 years. Your method works – I feel great – I have not smoked for nine weeks. I have saved \$200 by not buying cigarettes and have lost 11 pounds. Thanks.

W.B., Allentown, PA

My children couldn't be happier. They love it now that I've quit with the Gary Method. I am amazed at how easy it is. Next month will be a year. Keep up the good work.

G.B., Wilmington, DE

My prayers have been answered. I'm no longer chained to my cigarettes and I have lost 14 pounds. All I can say is Thank God – and Thank you Tom Gary.

L.B., Mobile, AL

I'll admit I was skeptical at first but it was so easy. I became a non-smoker in just two hours and I feel fantastic!

R.S., New York, NY

The Gary Method of Hypnosis is a miracle. I have been heavy my whole life. There is not a diet I haven't tried. I lost 44 pounds and have kept it off.

P.R., Philadelphia, PA

It was the best gift I have ever received – The Gift of Life.

T.B., Cherry Hill, NJ

*B.D., TOMS RIVER, NJ

I used to smoke 3 packs of cigarettes a day. I have put away \$4.50 everyday for the last 3 years. My husband and I finally had that romantic getaway we've dreamed of.

C.L., Minneapolis, MN

I was the last person in the office to quit. One by one the others succeeded with the Gary Method. They finally convinced me last month – and am I glad they did. It was so easy – I should have done it years ago!

K.M., Sacramento, CA

I tried to quit smoking 8 or 9 times in the last 3 years. The anxiety, stress or weight gain always caused me to go back. With your method I had no withdrawal, actual weight loss and I have been smoke free for 8 months.

J.D., Amarillo, TX

My son wouldn't bring our grandchild to the house because he didn't want the baby around smoke. We didn't think we could stop. Now that we quit my husband and I get to babysit at least once a week.

D.G., Los Angeles, CA

I deal black jack for a living. It's a high pressure job, but with your method I quit comfortably.

B.T., Atlantic City, NJ

THE GUARANTEED DAVE LARY METHOD

STOP SMOKING

IN JUST TWO HOURS

No Withdrawal
No Anxiety
No Weight Gain

Only **\$39⁹⁹**
Complete!



Dave Lary's method of hypnosis has worked for 140,000 smokers over years. Of those who join us, 95% will throw away their cigarettes and stop smoking by the end of the seminar. You'll leave refreshed and feeling great.

SEE BACK PAGE FOR ENDORSEMENT

Written Money Back Guarantee

DAVE LARY
Certified Hypnotherapist

BRING A GROUP OF FRIENDS & EACH OF YOU WILL GET A DISCOUNT
Program from 7:00-9:00 PM. Registration 30 minutes before Seminar at the door.

NEWTON

Tuesday, November 17th

MARRIOTT HOTEL

2345 Commonwealth Ave.

(At Intersection Of Route 128 (Exit 24) And Mass. Turnpike) or
Heading West, Exit 14 Off Turnpike • Heading East, Exit 15 Off Turnpike

YOU TRIED TO STOP - CAME SO CLOSE BUT - SOMETHING GOT IN YOUR WAY. FINALLY, you will stop smoking permanently through the Dave Lary Method of Hypnosis. Your smoking and overeating habit will finally come to an end. With my method, you will not have stress, craving, withdrawal or feel a need to overeat.

STOP SMOKING AND OVEREATING IN JUST 2 HOURS.
You, once and for all, you will end your smoking and overeating habit. **HIGHLY RECOMMENDED BY DOCTORS**, my unique hypnosis has helped thousands of people stop smoking and lose weight. At my seminar, you too, in just 2 hours, will stop smoking and lose weight permanently.

I created my hypnosis to work for you - every day, in real life, your life. You will see, hear and experience for yourself how my hypnosis will end your cigarette habit effortlessly, naturally and permanently! And you will be able to do all the things you used to do (eat, drink, watch TV) without missing the cigarette. Witness those around you throwing away their cigarettes and completely end their smoking habit.

YOU ARE ALWAYS IN CONTROL
You will not be unconscious. You will be aware and in full control. Hypnosis is a pleasant state of relaxation that brings out the very best in you. It is safe, fast and requires very little effort. It works almost automatically to eliminate your desire to smoke once and for

You are going to develop healthy habits of not smoking:

- In a car
- After a meal
- At work
- With coffee
- Talking on the telephone
- Watching TV

Yes! You will be able to do all these things without craving a cigarette. My hypnosis has a unique powerful effect of using other people who smoke to help you remain a nonsmoker. You can be around smokers and their smoking won't bother or annoy you.

UNIQUE FREE GIFT

Experience IMMEDIATE results from my UNIQUE FREE GIFT that will give you a feeling of security so that you will not feel like you are missing the cigarette or the extra fattening foods.

I'M SO SURE YOU WILL BE SUCCESSFUL THAT I OFFER THIS WRITTEN GUARANTEE

"If you are not completely satisfied, for any reason, I will refund your money - on the spot, that day - no questions asked. This is my personal guarantee to you. And if you ever start smoking or overeating again, you will be admitted absolutely free to a DAVE LARY STOP SMOKING-WEIGHT LOSS PROGRAM."

NOW THAT'S A GUARANTEE IN WRITING

Bring in this ad for your FREE GIFT and your Bonus! A \$15.00 value designed to give you the best chance to stop smoking and overeating once and for all. Bring your friends and family and each of you will get a discount and finally end your smoking and overeating hab-

NO WORRIES!

No Anxiety
No Weight Gain

Only \$39
Complete!



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MOST IMPORTANT REMAIN SMOKE FREE

That's right. With the Dave Lary Method you leave my program a non-smoker.

LOSE WEIGHT FREE

You will lose weight easy, effortlessly and permanently through the Dave Lary Method of Hypnosis. You will not have stress, craving or feel a need to binge. You are going to develop healthy habits of not overeating: at night, when depressed, when nervous, watching TV when bored, or at parties. Absolutely no diets and no up and down yo-yo effect. Finally, control emotional eating!

You are going to develop healthy habits of not smoking:
• In a car • After a meal • At work
• With coffee • Talking on the telephone • Watching TV
Yes! You will be able to do all these things without craving a cigarette. My hypnosis has a unique powerful effect of using other people who smoke to help you remain a nonsmoker. You can be around smokers and their smoking won't bother or annoy you.

UNIQUE FREE GIFT
Experience IMMEDIATE results from my UNIQUE FREE GIFT that will give you a feeling of security so that you will not feel like you are missing the cigarette or the extra fattening foods.

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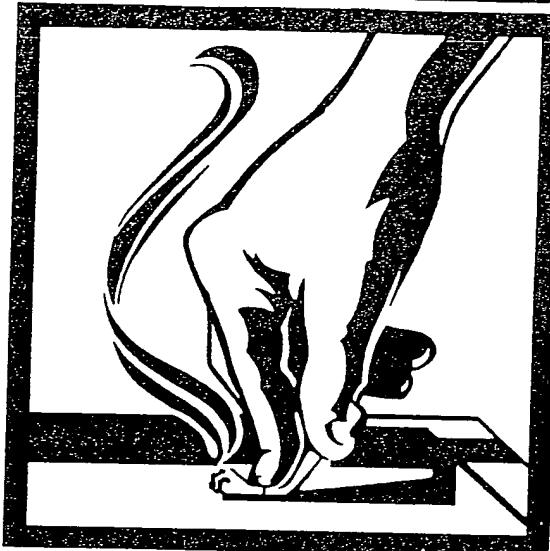
THE WEIGHT LOSS PROGRAM IS ABSOLUTELY FREE FOR ALL THOSE ATTENDING THE STOP SMOKING SEMINAR. The Weight Loss Program Will Start at the Same Time as the Stop Smoking Program. If you attend just for weight loss, you MUST register at the door 30 minutes before the seminar. The fee is \$39.99. Cash, Checks, Visa and MasterCard are accepted. Bring a group of friends and each of you will get a discount.

SAVINGS - BRING THIS AD FOR YOUR \$15.00 BONUS

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OVER
140,000
PEOPLE
HAVE PUT
THEIR
CIGARETTES
OUT



THROUGH
THE
GUARANTEED
DAVE
LARY
METHOD...

AND SO WILL YOU!

ENDORSEMENTS

"I highly recommend this Stop Smoking — Weight Loss Program. I am impressed with its great results."

R.S.; Ph.d, Clinical Psychologist; Long Island, N.Y.

"I am a bartender. People are smoking all around me. I thought to myself how could I quit when I have to go back to work. But with the Dave Lary Method, other people who smoke don't faze me. I am proud to say that when I go to restaurants, I say, "Non-smoking section please."

N.H.; Austin, Texas

"Dave's seminar results are unbelievable. I didn't believe it would happen, however it did! I know I will never smoke again!"

E.S.; Chicago, Illinois

"My friend and I attended Dave's seminar. Not only did we both quit but we went to Atlantic City, had a great time and did not miss those cigarettes."

V.H.; Pittsburgh, PA

"I smoked 2 packs of cigarettes for 20 years. I stopped completely at "Dave Lary's Seminar" and with no weight gain. I feel great. My friends and co-workers are so impressed by my success that they all would like to attend."

T.S.; Philadelphia, PA

"After leaving the seminar that first day I felt excited and relaxed about eating. I have lost weight and dress sizes too. I feel good about myself because it has been easy and enjoyable. The anxiety I always experienced about food is gone - I feel free."

M.B.; Rosemont, Illinois

"Dear Dave, I was smoking 2½ packs of cigarettes for over 25 years. In April 1991 I attended your seminar. It worked! It is 14 months later and I remain smoke free. For this I wish to express my heartfelt appreciation to you."

C.K.; Philadelphia, PA

"7 weeks ago I attended a seminar to stop smoking. After 28 years of smoking 1½ packs a day I have completely stopped smoking. Thanks."

K.L.; Philadelphia, PA

"If I can do it, anyone can. I no longer crave cigarettes. WOW! There was No withdrawal...No weight gain."

G.Z.; Chicago, IL

"At the seminar, I received my free gift. It is incredible! It helped me to stop smoking instantly. The gift is every ex-smoker's dream. Not only did I stop my over 1 pack a day, 15 year habit, but I lost weight too."

R.D.; Cedar Lake, Indiana

AND SO WILL YOU!

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For Only \$39.99, You Too Can Benefit From This Remarkably Easy Program:

**BRING YOUR FRIENDS AND FAMILY AND
YOU'LL EACH PAY LESS. THAT'S RIGHT - COME
AS A GROUP, GET A DISCOUNT AND FINALLY
PUT AN END TO YOUR SMOKING HABIT.**

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Get the Most from the Gary Method**



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Get the Most from the Gary Method**



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**The Gary Method of Hypnosis
Lose Weight Permanently**



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**The Gary Method of Hypnosis
Stop Smoking Permanently**



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Improve Your Concentration and Memory**



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**The Gary Method of Hypnosis
Release Your Tension – End Nervousness**



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Improv Your Study Habits



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The Gary Method of Hypnosis
Stop Procrastinating Today



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Increase Your Self Confidence



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Control Your Anger Now



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INTRODUCTION

CHICKEN JOKE

LET ME TELL YOU ABOUT YOUR ADDICTION

HOW MANY SMOKE IMMEDIATELY AFTER DINNER

LOTS OF THINGS HYPNOSIS CANNOT DO FOR YOU

HARD TIME HYPNOTISING/STUBBORN PEOPLE HERE?

NOT DEPEND ON PERSONALITY: PERCEPTION: 96%: 100p: 4%

YOU WON'T BE UNDER ANYONES CONTROL...COUGHING

LETS TALK ABOUT WHAT HYPNOSIS FEELS LIKE

THINGS I AM NOT GOING TO ASK YOU TO CHANGE

LOBELIA

questions

**~~SERIES OF TAPES: TAKES TIME: RE-HYPNOTISE: EXAMPLES:~~
~~PROFESSIONALLY PRODUCE 8: LOTS BY MAIL \$120, or \$15 PER~~
~~TAPE: HERE, AFFORDABLE: BOOKS~~**

CIGARETTE BREAK: 85%

11%

INTRODUCTION

Good evening. I'm Shira Block and I know why you're here tonight. Over 90% of the people in this room are smokers and you think that right here at _____ you're going to get the one thing that's going to put you over the top; this much more will power! Sure, I'm going to give you a post hypnotic suggestion that states for once, your natural stubbornness will work for you! But frankly, that's far from the most important suggestion I will give you tonight.

Most of the suggestions that I will give you tonight will relate directly to lowering the pain and tension associated with withdrawal from cigarettes. I'm not telling you that the next 3 weeks are going to be the happiest weeks of your life, but I can tell you that it will be nothing like it was the last time you tried to quit.

Let me begin to tell you...before I get to that...is there anybody in this room that's concerned about clucking like a chicken or barking like a dog? While hypnotized tonight no one will be asked to leave their chair or speak. It's been my experience that if you remain seated and keep your mouth shut it's impossible to make a fool out of yourself.

Let me tell you about your addiction to cigarettes. Every smoker in this room know that they're addicted to a chemical substance - and that substance is nicotine. But what is not discussed is the other aspect of the addiction. 100 years ago, a Russian Scientist named Pavlov did a series of experiments, one of which involved a dog. He took that dog, put it in a room, and fed the dog at precisely the same time every day. Before each feeding he

rang a small bell. He did this for months. One day he walked in the room without any food and just rang the bell. He observed that the dog began to salivate - produce saliva - just as if it were in the presence of food. Pavlov won the Nobel Prize for his theory - the theory of the conditioned reflex, more commonly referred to today as the theory of conditioned response. This theory said that animals and human beings can be conditioned to respond to events that happen regularly and repeatedly.

How many people in this room smoke immediately after dinner? You have classically conditioned yourself to expect nicotine immediately after a meal,... but not just after a meal...with coffee, with alcohol, after sex...even first thing in the morning. This conditioning hasn't gone on for months..or even years...for most people in this room, its been decades & for some people in this room its been 40, even 45 years. Not long ago at a seminar in California, a fellow came up and said he had been smoking for 57 years!

There are lots of things that Hypnosis can not do for you...it can't convince you to be a non-smoker...it can't make you forget you were a lifelong smoker...but the good news is, with Hypnosis, I can reach right into that part of your subconscious which stores those responses and interfere with them so completely, so directly...that tomorrow, after lunch, if you've chosen to live your life as a non-smoker, you'll be amazed that, as the minutes go by, you're not in pain and you're not tense...this will allow you to realize that you can win! The Walter Reed Army Hospital now uses Hypnosis in over 50% of their pain cases. Without drugs and painkillers they have discovered they can reduce or eliminate pain in seriously injured people.

How many people in this room think I'm going to have a hard time hypnotizing them? How

many stubborn people do we have here tonight? Hypnosis does not depend on your personality, it has nothing to do with whether you're stubborn...whether you're nervous or easy-going...what Hypnosis depends on is your subconscious perception of whether I'm the right person to lead you into this altered state. I make a statement in the white brochure that says I can Hypnotize 96% of all people who attend my seminars. If when I came out on stage tonight...and this young woman in the front row looked at me and thought "my G-d, she looks just like my sister-in-law" and then immediately thought "my sister-in-law is a total idiot!"...chances are I would have a hard time hypnotizing her tonight. Consciously she could say..."she's not my sister-in-law", but subconsciously she's probably think "no way is this idiot going to hypnotize me." If there were exactly 100 in this room I could Hypnotize 96. If another hypnotist who can do large group seminars then came out on stage, he too could hypnotize 96 of the same 100 people-but the fascinating thing would be that the 4 that he failed to hypnotize would probably be a different 4 than mine.

You won't be under anyone's control, so if your ear itches, scratch it! I won't know it itches and won't be able to give you a suggestion to scratch it. There are going to be people coughing in this room...I don't want you to be self conscious if you cough. If you have to cough it's fine, just don't worry about it. I could hypnotize this group in a train station with trains going in and out! You'll hear everything that happens around you, but you won't give a damn. It just won't matter.

Lets talk about what Hypnosis feels like. The best description I ever hear is that you feel very much like you feel just before falling asleep. Although you are relaxed physically you

are very aware mentally. You'll be relaxed from the shoulders down. It is a very pleasant feeling. There is a sense of relaxation, yet, at the same time, you are awake and aware. one night a guy came up to Tom after a seminar, with a half carton of cigarettes crunch in his hand like this. He looked at Tom and said, "I really want to throw these away but I'm not going to unless I'm absolutely sure that I was hypnotized." He was an intelligent looking guy when he wasn't hypnotized but like most people, when he was hypnotized, he got the stupidest look on his face. The muscles of your face begin to relax and sag.. a little bit... In fact during the hypnosis, I will be turning the lights down, not because you need the room dark to be hypnotized, its for me, so I don't have to look out at all of you. Anyway...Tom knew this guy was hypnotized...but didn't want to tell him how. Instead Tom asked him how old he was... he said 54..Tom said "I assume you felt that way frequently?" The guy said no. He said he was very relaxed, but during the hypnosis Tom must have poured himself a glass of water, because while he was relaxed he heard an ice cube clink into the glass. They both laughed because it showed the man that he could be very relaxed but still completely aware of everything that was going on around him. He threw his carton of cigarettes away, and called the office six weeks later to say that he was a non-smoker.

Let me tell you some of the things I'm not going to ask you to do. I'm not going to ask you to stop drinking coffee. Tomorrow morning feel free to do that. If you stop off at a bar from work with friends for a beer normally...do it! If you want to go to lunch tomorrow with 5 friends and they want to sit in the smoking section...you can do that! I'll give you a post hypnotic suggestion which states whenever you see others smoke you'll quietly regard them as having a weakness you used to share. I'll stress the word quietly, you might as well have some friends next week who smoke! There are lots of things that with Hypnosis you don't

have to change about your life...but, there are 2 things that I need you to consciously change your mind on. The first is..."non-smokers do not carry cigarettes." If I was an alcoholic and you saw a flask of whiskey in my pocket...would you believe I'm not going to ever drink again? If you carry cigarettes, you are telling your subconscious-in the most direct manner possible-that you are a smoker waiting to go back. The second thing I need you to realize is once someone is off cigarettes for a prolonged period of time...months or years...the danger is telling yourself..."I bet I could have one cigarette and it wouldn't be a big deal." Tom Gary has done research that shows that 98% of all people who have quit smoking, no matter how long...it could be years...if they have one cigarette...they will smoke again within 48 hours. And...98% of them will buy a pack of cigarettes within 7 days.

When you came in you were given a nutritional supplement which is an herb named Lobeilla. Lobeilla is an herb, not a drug, and can be safely used by up to 95% of all smokers to replace nicotine for up to 30 days. Pharmacists call it "Indian Tobacco" and it got it's nickname because it mimics tobacco or nicotine in the body.

If you are pregnant or have heart or circulation problems call your doctor. Some will be in favor of your taking it: others won't. Take their advice! It's a minor part of this program, so if you don't take it you can still make the Hypnosis work.

ARE THERE ANY QUESTIONS ABOUT HYPNOSIS?

Let me begin to talk about a series of tapes that we produce. People often ask me, "must I buy a Hypnosis cassette to reinforce Hypnosis? No! Thousands of people have come to our seminars, did not buy the tapes and successfully quit smoking or lost weight. There are

a hundred books out there that can give you almost the same information, but this guy does it in a paperback that is easy to read and if the first day you read one, two or three chapters, you are already on your way to lifelong lower weight and he shows you how to keep it off. He gives you tips, like if you're a big eater, never drink a glass of orange juice for breakfast. It is the equivalent in sugar of four oranges. Why would you drink the orange juice when you can eat four oranges instead? There are lots of things like that in the book and it's extremely well done.

The 2nd book also by Covert Bailey called "Fit or Fat", deals with providing the essential key to lifetime health and fitness. I'm going to give everyone here, if they want it a break for a cigarette. I know that surprises some people. Hang on a minute, if you would. I know that surprises some people, but frankly, I hypnotize about 96% of the people if I give them a break for a cigarette. If I don't, I hypnotize about 85% of the people, because 11% of you hate me. The registration desk is open during the cigarette break if you want to buy the books or buy tapes, if you think you'll use them. I will call everyone back in 20 minutes or so, 20 or 25 minutes. Take your time; you have time for a couple of cigarettes. There is no smoking in this room and please use the ashtrays.

(B)

PB 1

POST BREAK

Let me begin to show you the few simple things you need to know in order to be hypnotized. The first thing I'm going to show you is how I don't want you to sit. If you're sitting this way now, you can continue to sit this way for the next few minutes as I talk, but when we lower the lights and begin the hypnosis, I want you to change your position in your chair. This is how I don't want you to sit: (demonstrates). The reason you can't sit this way is that in our subconscious, all of us associate that with a very defensive posture, so let's make my job as easy as possible so we get the most benefit out of it.

(D)

Let me begin to tell you how I don't want you to think. People think that in order to be hypnotized that they have to stop their conscious minds, ~~that~~ they have to make it go blank, when in fact, nothing could be further from the truth. If you sit here and have the thought that you children are the most aggravating children in _____, I don't want you to fight a battle to get that thought out of your mind. I don't want you to do any work this evening. I'm the only one that came here to work and I need you just to close your eyes at this point, sit back and pretend that you had a tough day on the job. That may not be too tough for some of you. I don't want you to hang on every word that I say. I don't want you to think that you have to listen intently. If you miss a word, if you miss a sentence, if you miss a paragraph, it's no big deal. What is most important is that I be the only one in this room that works. For a few of you who are nervous, and there may be more than a few, remember, it's my job to relax you; it's not your job to relax yourself.

PB 2

(20) Let me speak about noise. There will probably be a couple of coughs in the room. People are oftentimes under the impression that you need a quiet room to hypnotize people. If you have to cough

this evening, I encourage you not to feel self-conscious. Yes, everybody will hear it. (You don't have to cough now to prove a point!) Everybody will hear it, but even though they'll hear it, they won't give a damn. Any seminar this size will have a few people with health problems, ^{WE DO} ~~who~~ have taken some notes. The noises don't affect hypnosis, but I don't want you to think that if you have to cough you should be self-conscious. Don't worry about it. Simply cough. People will hear but they just won't care. Put yourself in a relatively open physical position.

WEIGHT CONTROL INTRODUCTION

Let's talk about Hypnosis and weight loss.

The next time you walk into a supermarket I want you to take a look at the foods that are fresh. It won't take long because 90% of all the food in a modern supermarket is not fresh. It is processed in some form. Processed foods are high in both fats and sugars and cause many people to gain weight.

With Hypnosis I will make foods which are lower in fats and sugar more appealing and fried foods and processed foods less appealing. But in order to get the maximum benefit you should read it. You'll start to lose weight immediately and you'll be able to keep it off. Now put yourself in an open physical position.

W. C. INTRO-2

Just close your eyes we're going on a little trip. There's no destination..because there's no destination we're not in a rush. You'll be like leaf on a tree. You'll float, slowly, quietly...cheerfully. You will go down...and down...you'll float quietly...gently. Gradually, you will be more and more relaxed. Soon you are going to be more relaxed than you have for a long, long time.

INDUCTION

27

~~IN 97~~

AFTER INSTRUCTION
BEFORE W.C.

Imagine a flight of stairs. There are 7 steps and a sturdy bannister. As we descend each step, we will exhale any remaining tension...from the 7th step...to the sixth...deeper and deeper...to the fifth...lower and LOWER

W.C.-1

You have chosen to eliminate the excess weight, you have chosen to look and feel the way you want to look and feel. I want you now to picture yourself looking and feeling exactly the way you want to look and feel...know...that you have already begun to accomplish your goal. You have already begun to accomplish your goal. Know...that you will automatically eat small enough amounts of food to lose up to 2 pounds per week, every week, until you reach your goal. Once you reach your goal weight, your ideal weight, you automatically retain and maintain your ideal weight...never varying more than three pounds in either direction from that goal weight. Once you reach your ideal weight, you automatically retain and maintain that goal weight...never varying more than three pounds in either direction from the goal weight.

The smaller portions of foods that you are eating...are totally and completely satisfying, and you remain satisfied from mealtime to mealtime. You chew every bite. You eat slowly, enjoying the small amounts of food...the smaller amounts of food that you are eating are totally and completely satisfying and you remain satisfied from mealtime to mealtime. You chew every bite...eating very slowly...and enjoying the small amounts of food that you are eating. You have no desire for larger amounts of food that you had been eating, because you know that your body just stores that excess fat...you have chosen not to allow that to happen anymore. You have no desire to eat between meals or after supper in the evening...because you are totally satisfied from the previous meal. You have no desire whatsoever...to eat between meals or after supper, because you are totally and completely satisfied from the previous meal.

You now acknowledge that you desire to be at your perfect weight. Feel the joy growing within you knowing you have already begun to accomplish your goal.

The nutritious foods are the foods that taste the best, and they're the most appealing. You really enjoy the nutritious foods...the foods that are going to help you in eliminating the excess fat. When you shop...you are attracted like a magnet to the nutritious foods. The snack foods...the junk foods...just have no appeal to you at all. You prefer the nutritious foods. If you eat the snack foods or the junk foods...the sweets...one or two bites are satisfying and you stop eating them. You much prefer the nutritious foods...Foods that are going to help you in accomplishing your goal. You no longer eat or drink anything that will stand in the way of accomplishing your goal. You no longer eat or drink anything that will stand in the way of accomplishing your goal.

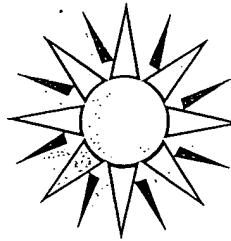
STOP SMOKING

Imagine that we're atop ~~at~~ a flight of steps. There are seven steps and a sturdy, safe bannister. As we descend each step in our minds...I will count them off. With each count, you will exhale and release any remaining tension. With each count, you will exhale and you're closer and closer to a tensionless comfort. From the seventh step to the sixth. Deeper and deeper to the fifth. Lower and lower, to the fourth...the third...the second...the first...from the first step to the perfect place, leaving the ^{old} smoking addiction behind. As the minutes become hours and as the hours become days, your natural stubbornness will, for once, ^{BE} ~~be~~ your ally. Whenever you see others smoke, you may quietly, quietly regard them as having a weakness, which you used to share. You will never again desire a cigarette. You will never again smoke a cigarette, after meals, with coffee, tea, alcohol or beverages of any kind.

You will never again desire a cigarette or smoke a cigarette while watching TV, while on the telephone, while in a car. You will never again desire a cigarette or smoke a cigarette while doing make-up or hair, while in the bathroom, after sex or at work or at play, while reading, or studying, or relaxing. When alone in groups or at a party or under any other circumstances, you will never again desire or smoke a cigarette. As I count from five to one, let yourself drift further and further from the old smoking addiction and closer and closer to a tensionless comfort, 5-4-3-2-1. You will not resent others who do smoke. You will not be distressed at not smoking. You will not be tense. You will not be nervous. If your husband smokes, you will let that go as his weakness. If your wife smokes...if your friends smoke...you will not have any reaction that other ^S smoke ~~or the fact that you quit~~. You will not feel deprived, you will not feel angry. You will feel the way a healthy person feels when they make themselves healthier. You will not suffer from any habits or addictions, or pick up any habits or

won't overeat or eat the wrong foods as a nonsmoker. Should the thought of a cigarette come to your mind, you may take a single breath and on the exhale, think, "I'm a non-smoker. I choose to be a non-smoker. And that thought or temptation for a cigarette will leave you in 30-60 seconds. This and the other suggestions will last you forever. Should you need to calm yourself...should there be an emergency, should you want to be calmer or more in control, you can take three deep breaths and you will be calmer. In an emergency, you can do this quickly. In a moment, you will hear me breathe deeply three times. Listen to my breaths...and then later, I will count for you to breathe. When you breathe...later...if you cough, it's fine. First off, clear your mind. ^{FIRST ME} ₃(Breathes). Now you...one...two...three...This ability will last you forever. In a matter of days, your circulation will begin to improve. You will notice it first when you're cold in your legs and your feet, your extremities and your fingers. It will be a feeling of renewed health and vitality. You will love this feeling. You will

cherish it...you will recognize that your body is repairing the harm. Damaged parts...you will know...you will understand that it helps. Your lungs will begin to clear in less than a week. This will not distress you. You will love the fact that your lungs are clear and that your body is coming back. Your complexion will be better within a week to ten days. You'll enjoy it...you'll get the full enjoyment of what you're accomplishing...every day! In a moment, I will count from 1-7. At the count of 7 all feelings of heaviness will leave you. You will be greatly refreshed with these deep, deep breaths and a feeling of confidence will begin to grow day by day, a feeling of good health. You will use this as a first step in putting your health and vitality on the highest level you can. At the count of 7 all feelings of heaviness will leave you. You will be greatly refreshed and open your eyes. 1-2-3-4-5-6-7...I know its not Hollywood but what do you think? For those of you who are interested in such things, that was about _____ minutes. I notice to some people it comes as a surprise, having difficulty to keep track of time in a very relaxed state like that. THERE ARE TRASH CANS FOR YOU TO JUNK YOUR CIGARETTES. TALES ARE FOR SALE. THANKS. YOU'S BEEN



SCHWEITZER CORNMAN
GROSS & BONDELL LLP

Shira Block McCormick

PO Box 945
Wilbraham, MA 01095
413-596-8848

Shira@ShiraBlock.com

APR 25 2003

FLS FS3 JAB
MAC MAG
TM OK to File

Michael A. Cornman
292 Madison Ave
New York, NY 10017

April 18, 2002

Dear Michael:

As per your request I have located parts of the scripts I used while conducting **The Gary Method** for stopping smoking and weight loss in 1991-1992. I have enclosed copies. They are kind of a mess – I didn't want to clean them up, risking altering them. I have also enclosed a copy of an advertisement placed by another man conducting the same types of workshops. This ad was placed in 1992.

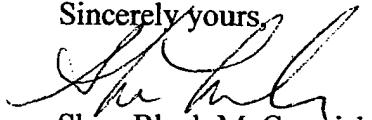
There were six parts of the seminar:

1. 20-minute introduction. I have the complete script for this segment with the outline I used to remind me of what to say during the talk. After the script I conducted an unscripted question and answer period.
2. 20-minute cigarette break. During the break I would give people personal attention and answer more questions.
3. 3-minute post break introduction to the hypnosis. I have the complete script for this segment.
4. 30-minute Stop Smoking hypnosis section. This section can be broken down into two parts. The progressive relaxation section – which I only have two pages of that script, and the hypnosis itself – which I have most of the script.
5. 2-minute introduction to the weight loss hypnosis section. I have the complete script for this segment.
6. 30-minute Weight Loss hypnosis section. This section can be broken down into two parts. The progressive relaxation section – which I only have two pages of that script, and the hypnosis itself – which I have most of the script.

As I previously indicated, I began working for Tom Gary as an independent contractor in April 1991. However, if I recall correctly, he started his company in 1989. While I was working for Tom Gary, (**The Gary Method**), I had been conducting five workshops per week throughout the United States and Canada, with tens of thousands of participants. In addition to me, there were several other teams that he hired to conduct these Stop Smoking hypnosis workshops. After the close of the business, Tom re-contacted me in the spring of 1992 to see if these workshops would be successful abroad. In 1992 I conducted a series of workshops in London.

I would be happy to answer any additional questions, and to supply you with any information that I may have.

Sincerely yours,


Shira Block McCormick

Let yourself become very...very limp.

Gradually, as you will start to relax...you will become aware of the feelings of heaviness. You may not feel it right away, but you will feel it in a little while. Just let these sensations occur naturally. Do not try to change anything, but just allow yourself to experience tensionless relaxation. There is nothing for you to do now...nothing at all. I want you to feel a complete state of peacefulness...with absolutely nothing to do, and gradually, as you do relax.. you will find yourself

/C

You can just rest your mind as well as you can rest your body....So now rest your mind. There is no need for you to think of anything now. There can be a blank peacefulness...just blank....And as you feel this wonderful feeling of quietness...nothing need both ^{ER} you....You are so deeply relaxed now...so calm...that your mind is beginning to respond to all the suggestions I have given you....For you are more relaxed...more drowsy...more and more able to respond by feeling what I tell you you will feel. So your mind has become more receptive...and not only has your conscious mind become receptive...but your subconscious mind has become receptive...and you are able to accept any ideas...any thoughts...that are beneficial to you.

HYPNOSIS CASSETTES**T-1 STOP SMOKING PERMANENTLY**

Imagine being able to use the power of hypnosis on a daily basis to reinforce your desire to quit. Use this tape for 30 days, then never use it again!

T-2 LOSE WEIGHT PERMANENTLY

Designed to reinforce the weight loss hypnosis. Use it tomorrow or a year from tomorrow, whenever you feel the need to reinforce proper eating habits and eliminate any craving for fattening foods.

T-3 RELIEVE YOUR TENSION/END NERVOUSNESS

Use this tape to become a calmer, more relaxed person. One 54 year old client had been nervous and tense all her life. After listening to the tape for only 30 days, her blood pressure dropped 13 points! The tape is also very effective for insomnia.

T-4 INCREASE YOUR SELF-CONFIDENCE

In a matter of days, you'll feel more confident. A client who used this tape built up the nerve to ask for a raise. Since her supervisor had been waiting for her to exhibit more confidence, she got the raise - and a promotion as well!

T-5 IMPROVE YOUR CONCENTRATION & MEMORY

Use this tape to strengthen your ability to remember. After only three weeks of listening, a 60 year-old client who had trouble recalling dates, names, etc. on the job found he could concentrate without effort.

T-6 IMPROVE YOUR STUDY HABITS

The perfect tape for students of all ages. You and your children will find you can absorb subject matter with greater ease, no matter what the subject is.

T-7 STOP PROCRASTINATING TODAY

There's no time like the present to enjoy life. This tape helps you do the things you need to do so you can get on to the things you want to do.

T-8 CONTROL YOUR ANGER NOW

A hot temper can be controlled through the subconscious. This tape can help you become more calm, and "take a deep breath" before your anger gets the better of you.

Cassettes are regularly \$15.00 each. At this seminar, they're only \$9.95 each. Buy two for \$19.90, get a third free. Buy a fourth for only \$29.85 and get a fifth free.

Buy a sixth, get the seventh and eighth free.

ALL EIGHT FOR ONLY \$39.80.

THE GARY METHOD 30 DAY SUPPLEMENT

This dietary supplement has been specifically formulated for use during your first 30 days as a non-smoker. The key ingredient, Lobelia, is a herb commonly referred to as Indian Tobacco. Unlike cigarettes, it contains no nicotine and is not addictive. Every ingredient in the supplement is natural (no chemicals or drugs). It is designed to calm you and help you for the first 30 days, while providing your body with such important supplements as Beta Carotene and Vitamin C.

Years of anecdotal evidence from thousands of ex-smokers prove that using Lobelia in conjunction with hypnosis is the best chance you'll ever have to stop smoking.

A 30 day supply (60 tablets) is \$15.00, but free of charge when you attend this seminar. Pregnant or lactating women and anyone with heart or circulatory problems should consult with their physician before using this product.

HYPNOSIS CASSETTE AND 30 DAY SUPPLEMENT**MAIL ORDER FORM**

Quantity	Quantity	Quantity	Quantity
T-1	T-4	T-7	T-8
T-2	T-5	T-8	
T-3	T-6	30 Day Supp	

HYPNOSIS CASSETTES \$15.00 Each. 30 DAY SUPPLEMENT \$15.00 Each.

of Cassettes x \$15.00 = \$

of Supps. x \$15.00 = \$

Subtotal = \$

NY Residents add 8.25% Sales Tax = \$

TOTAL = \$

Account # Exp. Date: Signature:

Name

Address

City State Zip Phone ()

Payment by:

Check

Money order

Visa/MC

AmEx

MAIL TO:
GARY METHOD OF HYPNOSIS, 17 VARICK STREET, SUITE 1626, NEW YORK, NY 10013
TO ORDER BY PHONE (CREDIT CARD ORDERS ONLY). CALL 1-800-677-6653



THOMAS J. GARY



SUSAN SEXTON



WALTER "CHIP" DAVIS



SHIRA BLOCK

SOME PEOPLE BELIEVE HYPNOSIS IS A THEATRICAL STAGE TRICK OR HIGHLY EXPERIMENTAL. IN FACT, IT IS SCIENTIFICALLY PROVEN AND MEDICALLY ACCEPTED. HYPNOSIS IS THE SAFEST, MOST EFFECTIVE WAY TO QUIT SMOKING AND LOSE WEIGHT.

HERE ARE SOME QUESTIONS MOST OFTEN ASKED BY CLIENTS:

WHO DEVELOPED THE GARY METHOD?

I, Thomas Gary, have spent the last fourteen years developing the Gary Method of Hypnosis. I, or one of my three associates trained in the Gary Method, will personally help you.

I have personally trained your seminar leader. Each seminar leader in addition to being trained extensively in the Gary Method is a member of the American Association of Professional Hypnotherapists, the National Guild of Hypnotists and the American Association for Counseling and Development.

SINCE SMOKING IS A PHYSICAL ADDICTION, HOW CAN THE GARY METHOD HELP PREVENT WITHDRAWAL, TENSION, ETC.?

The Gary Method, when used to stop smoking, focuses almost exclusively on interrupting your "conditioned responses."

Your subconscious will aid your body during precisely those periods when you are accustomed to having a cigarette. Instead of your subconscious making your body scream for nicotine after a meal, with coffee, with alcohol, etc., it will help you remain relaxed and pain free. Using my method, thousands of smokers just like you have quit calmly, painlessly and without weight gain - all in one night.

WILL I BE UNCONSCIOUS OR ASLEEP DURING HYPNOSIS?

No. You will always be awake and fully aware of what is happening. In fact, hypnosis is a form of concentrated attention. You are always in control of your mind and aware of what is going on.

Hypnosis works subconsciously, almost automatically, to accomplish your goal, whether it is to quit smoking or lose weight.

HOW WILL I KNOW I AM HYPNOTIZED?

You'll not only know it but you will enjoy it. Once hypnotized, you enter a state of wonderful physical relaxation, yet you are mentally aware. You can hear and are able to concentrate intensely, without the slightest effort.

SUPPOSE I'M NOT HYPNOTIZED OR I'M NOT SATISFIED WITH THE SEMINAR?

During the past 14 years, 96 percent of those who came to my seminar were hypnotized. **IF FOR ANY REASON YOU ARE NOT SATISFIED AT THIS SEMINAR, YOUR ENTIRE FEE WILL BE REFUNDED ON THE SPOT, NO QUESTIONS ASKED.** As a courtesy to others, it is requested that you do not ask for a refund during the hypnosis, but wait until the hypnosis is over.

If you ever start to smoke again, you will be admitted absolutely free to one Gary Method Stop Smoking Seminar.

SUPPOSE I BELIEVE I CAN'T BE HYPNOTIZED, OR HAVE BEEN TOLD THAT?

In any group, 15-20 percent of the group thinks that they cannot be hypnotized. Yet over the past 14 years, Gary Method Seminar Leaders have hypnotized a consistent 96 percent.

During the next two hours you will realize why virtually every adult has the ability to be hypnotized.

SUPPOSE ALL MY QUESTIONS ARE NOT YET ANSWERED?

During the seminar there is a short break before the hypnosis. Your seminar leader will be pleased to respond to your questions then.